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THE CLAYTON-BULWER TREATY

AND

THE MONROE DOCTRINE.

A LETTER

FROM

THE SECRETARY OF STATE

TO

THE MINISTER OF THE UNITED STATES AT LONDON,

DATED MAY 8, 1882,

WITH SUNDRY PAPERS AND DOCUMENTS EXPLANATORY
OF THE SAME, SELECTED FROM THE ARCHIVES
OF THE DEPARTMENT OF STATE.

WASHINGTON:
GOVERNMENT PRINTING OFFICE
1882.

NOV 3 1936

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

In response to the Senate resolution of the 15th of July, 1882, a report of the Secretary of State and accompanying papers relating to the Clayton-Bulwer treaty.

AUGUST 3, 1882.—Read and referred to the Committee on Foreign Relations.
AUGUST 4, 1882.—Ordered printed.

To the Senate of the United States:

I transmit herewith, in response to the Senate resolution of the 15th instant, a report of the Secretary of State and accompanying papers relating to the Clayton-Bulwer treaty.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
Washington, July 29, 1882.

To the President:

The Secretary of State, to whom was referred the resolution of the Senate of the 15th instant, requesting the President, "if not incompatible with the public interest, to furnish the Senate with copies of the declaration of Sir Henry Lytton Bulwer and Mr. Clayton on the exchange of the ratifications of the Clayton-Bulwer treaty on the 4th day of July, 1850, and any other documents referred to in the instruction of Mr. Frelinghuysen to Mr. Lowell dated the 8th day of May, 1882," has the honor to lay before the President, for transmission to the Senate in response to the resolution, the accompanying copy of the declaration of Sir Henry Bulwer and Mr. Clayton described therein, together with a selection of such other documents cited in the instruction of May 8 to Mr. Lowell as seem to come within the purview of the resolution.

Respectfully submitted.

FRED'K T. FRELINGHUYSEN.

DEPARTMENT OF STATE,
Washington, July 29, 1882.

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I.

NOTE.

Mr. Frelinghuysen to Mr. Lowell.

No. 368.] DEPARTMENT OF STATE,
Washington, D. C., May 8, 1882.

SIR: Mr. Sackville West has handed me copies of two dispatches from Lord Granville to him respecting the Clayton-Bulwer treaty; the first, dated 7th January last, comments upon Mr. Blaine's 270 of the 19th of November; the second, of the 14th January, comments upon Mr. Blaine's 281 of the 29th November.

They have been read with interest and with attention. After careful consideration, the President is not without hope that the views of the two governments may be harmonized in this matter. He therefore directs me to communicate to you, somewhat at length, the opinions entertained here respecting the traditional continental policy of the United States and the Clayton-Bulwer treaty.

A canal across the isthmus for vessels of all dimensions and every character, under possible conditions hereinafter referred to, would affect this republic in its trade and commerce; would expose our Western coast to attack; destroy our isolation; oblige us to improve our defenses and to increase our Navy, and possibly compel us, contrary to our traditions, to take an active interest in the affairs of European nations. The United States, with their large and increasing population and wealth, cannot be uninterested in a change in the physical conformation of this hemisphere which may injuriously affect either the material or political interests of the republic, and naturally seek that the severance of the isthmus connecting the continents shall be effected in harmony with those interests. This government, while believing that the isthmus should not be severed so as to do unnecessary injury to the United States, at the same time appreciates the desire of Great Britain that she should be able, by a short and easy passage from ocean to ocean, to reach her eastern and American possessions on the Pacific, and that other nations of the world have a similar interest in such a passage.

There is, however, no necessary conflict between the political claims of the United States in this matter and the material interests of other nations.

A canal across the isthmus can be created, and under the protectorate of the United States and the republic whose territory it may cross, can be freely used by all nations; thus in some degree would be continued to the United States the benefit of that conformation of the earth which is now an element of security and defense.

For thirty years the Panama Railroad has been maintained without other protection than that of the United States and the local sovereign, in accordance with the treaty of 1846 with New Grenada.

During that period Great Britain has carried to a successful result the wars of the Crimea and the Indian mutiny; France has three times convulsed Europe with strife; a conflict between Russia and Turkey has changed the face of the Ottoman Empire; thrones have crumbled; empires have been constructed; republics have arisen, while on this continent the most remarkable civil war in history has occurred, and at the same time the Emperor of the French was lending his active support to an aspirant for imperial honors in the neighboring republic of Mexico. Within that period almost every form of war and strife have taken place that would seem to make especially necessary the neutralization of the isthmus, and yet the trains of the Panama Railroad have run from ocean to ocean peacefully and with no other interruption than what has come from the rare turbulence of the local population.

During the same time another isthmus has been pierced, and while wars have raged within sight of the Mediterranean port the peaceful commerce of the world has moved through the Suez Canal quietly and safely under no international protectorate.

If no guarantee or protectorate has been found necessary during such troubled times, it can scarcely be required in the more peaceful period which both the Government of the United States and that of Great Britain hope and strive for.

The President, therefore, considers it unnecessary and unwise, through an invitation to the nations of the earth, to guarantee the neutrality of the transit of the isthmus, or to give their navies a pretext for assembling in waters contiguous to our shores, and to possibly involve this republic in conflicts from which its natural position entitles it to be relieved.

It will doubtless occur to Lord Granville, as it does to us, that in-

ternational agreements of this kind calling for interference by force, and conferring joint rights upon several independent powers, are calculated to breed dissension and trouble. In times of peace, when there is no call for their exercise, they are harmless though useless. But when wars and trouble come, it too frequently happens that differences arise, and so at the very moment when the agreement should be enforced it is impossible to enforce it; and such agreements would lead to that political intervention in American affairs which the traditional policy of the United States make it impossible that the President should either consent to or look upon with indifference.

The President believes that the formation of a protectorate by European nations over the isthmus transit would be in conflict with a doctrine which has been for many years asserted by the United States. This sentiment is properly termed a doctrine, as it has no prescribed sanction and its assertion is left to the exigency which may invoke it. It has been repeatedly announced by the Executive Department of this Government and through the utterances of distinguished citizens; it is cherished by the American people, and has been approved by the Government of Great Britain.

It is not the inhospitable principle which it issometimes charged with being and which asserts that European nations shall not retain dominion on this hemisphere and that none but republican governments shall here be tolerated; for we well know that a large part of the North American continent is under the dominion of Her Majesty's Government, and that the United States were in the past the first to recognize the imperial authority of Dom Pedro in Brazil and of Iturbide in Mexico. It is not necessary now to define that doctrine, but its history clearly shows that it at least opposes any intervention by European nations in the political affairs of American republics.

In 1823, Mr. Canning, with the concurrence of the cabinet of London, informed Mr. Rush that Great Britain could not see with indifference the intervention of foreign power in Spanish America, or the transfer to those powers of any of the colonies, and suggested a joint declaration to that effect by the United States and Great Britain. This suggestion grew out of the relations then existing between France and Spain, their attitude towards the South American republics then struggling for independence, and the injuries to the colonies and commerce of Great Britain which would result from a successful prosecution of the policy of those two governments. President Monroe did not adopt

the proposal for a joint declaration, but in his message of December 2, 1823, after stating that it was our policy not to interfere with the internal concerns of European powers, speaking of the war which the revolted colonies were carrying on against Spain, and of contemplated interference by the "Holy Alliance" in behalf of the latter, said, in language which has gone into history under his name, thus:

> But in regard to these continents circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness, nor can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference.

This sentiment was received in England with enthusiasm. Mr. Brougham said:

> The ques ion in regard to Spanish America is now, I believe, disposed of or nearly so; for an event has recently happened than which none has ever dispensed greater joy, exultation, and gratitude over all the freedmen of Europe; that event which is decisive on the subject is the language held with respect to Spanish America in the message of the President of the United States.

Sir James Mackintosh said:

> This evidence of the two great English commonwealths (for so I delight to call them, and I heartily pray that they may be forever united in the cause of justice and liberty) cannot be contemplated without the greatest pleasure by every enlightened citizen of the earth.

Mr. John Quincy Adams, who well knew what had led to these statements by Mr. Monroe, explained in a message to the House of Representatives on the 17th day of March, 1826, that there was no purpose of interfering with the existing European colonies in America; that the language was only a frank declaration that the United States could not look with indifference either upon an attempt by colonization to close any port of the continent against the commerce of the United States or upon concerted political interference from Europe in American affairs.

Thus the doctrine of non-intervention by European powers in American affairs arose from complications in South America, and was announced by Mr. Monroe on the suggestion of the official representative of Great Britain.

The doctrine so formulated by Monroe and expounded by Adams has since remained a cardinal principle of our continental policy. In several notable instances, especially in the case of the French attempt to set up imperial authority in Mexico, it guided our political action, and it is to-day firmly imbedded in the American heart.

It is true that this doctrine refers to the political and not to the material interest of America; but no one can deny that to place the isthmus under the protection and guarantee of the powers of Europe, rather than under the protection of the leading power of this hemisphere, would seriously threaten and affect the political interest of that power.

It is not to be anticipated that Great Britain will controvert an international doctrine, which she suggested to the United States, when looking to her own interest, and which, when adopted by this Republic, she highly approved; and it is but frank to say that the people of this country would be as unwilling that the pathway of commerce between the Pacific coast and our eastern market should be under the dominion of the allied European powers as would be the people of Great Britain that the transit from one to another part of her possessions should be under such control.

Prior to the war of the Revolution, Great Britain had acquired strong positions from Halifax to Antigua, dominating the coast of the United States. She retained these positions after the peace of 1783, and continues to use them for offensive and defensive purposes. She has strengthened old strongholds and made new ones, while the United States has ever refused to avail herself of proffered commanding external military stations.

No well-informed statesman doubts the ability of this nation to raise a powerful navy. To raise such a navy might bring commercial advantages to the United States, but it is doubtful whether it would promote the peace of the world; and the United States desire that their citizens may, without any armed assertion of right, be conveyed by water transit from their western to their eastern shores without passing under the guns of European powers.

These are our own views, and it is but frank to state them, while Her Majesty's Government is not called upon either to admit or deny them.

To considerations such as these Lord Granville, in his dispatch of November 10, 1881, answers that the position of Great Britain and the United States, in reference to the canal, is determined by the—

Engagements entered into by them respectively in the convention, which was signed at Washington on the 19th of April, 1850, commonly known as the Clayton-Bulwer treaty, and that Her Majesty's Government rely with confidence upon the observance of all the engagements of that treaty.

We are thus fairly brought to the consideration of the Clayton-Bulwer treaty.

The treaty relates to communication between the oceans, and divides itself into two parts:

First, and principally, that which the treaty terms a "particular object," to wit, a then projected interoceanic canal in Central America by the Nicaragua route; and this is the only object stated in the preamble of the treaty, which says that the two governments, "being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific Oceans by the way of the river San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua to any port or place on the Pacific Ocean," to that end confer full powers on Mr. Clayton and Sir Henry Bulwer.

This first and principal object of the treaty is considered in the first seven articles.

Second. The subordinate object of the treaty is that treated of in the remaining or eighth article, which states that the two governments "having not only desired, in entering into this convention, to accomplish a *particular object*, but also to establish a general principle (and this is the principle), hereby agree to extend their protection by treaty stipulation to any other practicable communication" across the isthmus, "and especially to the interoceanic communications, should the same prove practicable, whether by canal or railroad, which are now proposd to be established by the way of Tehuantepec or Panama." This "general principle" or joint protection is to be effected as stated, "by treaty stipulations."

Although this discussion relates to a canal by the Panama route outside of Central America, to which the eighth article refers, yet your attention is invited as well to the first and principal as to the second and subordinate purpose of the treaty.

First. While the primary object of the treaty, as will be seen, was to aid the immediate construction of a canal by what is known as the Nicaragua route, it is equally plain that another and important object, which the United States had in view, was to dispossess Great Britain of settlements in Central America, whether under cover of Indian sovereignty or otherwise. The United States were tenacious that Great

Britain should not extend further her occupation of threatening military or naval strategic points along their maritime frontier. To assure this, the parties to the treaty jointly agreed not to exercise dominion over, or fortify or colonize Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America. Great Britain, however, exercises dominion over Belize or British Honduras, the area of which is equal to that of Massachusetts, Connecticut, and Rhode Island, and the impression prevails that since the conclusion of the treaty of 1850, the English inhabitants of that district have spread into the territory of the neighboring republics and now occupy a large area of land which, under the convention, belongs to one or the other of the two republics, but over which the Government of Her Majesty assumes to exercise control.

Such dominion seems to be inconsistent with that provision of the treaty which prohibits the exercise of dominion by Great Britain over any part of Central America. This makes it proper for me to say that the English privileges, at the time of the conclusion of the Clayton-Bulwer treaty, in what has been known as the Belize, were confined to a right to cut wood and establish saw-mills in a territory defined by metes and bounds. These privileges were conferred by treaties, in which Spanish sovereignty was recognized. On the successful revolution, the rights of Spain vested in the new republics, and had not been materially changed when the Clayton-Bulwer treaty was concluded. That treaty was concluded April 19, and its ratification advised by the Senate May 22, 1850. On the exchange of the ratifications, Sir Henry Bulwer filed in this department, under date of June 29, 1850, a declaration that the exchange was made with the understanding on the part of Her Majesty's Government that the treaty did not apply to Her Majesty's *settlement* at Honduras and its dependencies. Mr. Clayton answered, under date of July 4, 1850, that he so understood, but that he must not be understood to either affirm or deny British title therein. It is to be observed that each of these declarations was made after the conclusion of the treaty by the joint action of the President and the Senate, and that the declaration was not made to or accepted by them. In 1859 Great Britain entered into a treaty with Guatemala, in which what had been called the *settlement* in the declaration made on the exchange of the ratification of the Clayton-Bulwer treaty was styled "Her Britannic Majesty's settlement and possessions."

In the treaty with Guatemala the boundaries were defined, and it was agreed that all on one side of the defined boundaries "belongs to Her

Britannic Majesty." It is further understood that when the commissioners met to mark the boundary in accordance with the agreement, it was found that the subjects of Great Britain had occupied so much more of Guatemala than was supposed that the commissioner on the part of Her Majesty's Government refused to proceed, and this large area of land has since remained practically in the possession of Great Britain.

The United States have never given their assent to this conversion of the British "settlement" in Central America under Spanish-American sovereignty into a British "possession" with British sovereignty. There is a vast difference between a settlement subject to the sovereignty of the Central-American republic and a colony controlled by Great Britain.

Under the treaty of 1850, while it is binding, the United States have not the right to exercise dominion over or to colonize one foot of territory in Central America. Great Britain is under the same rigid restriction. And if Great Britain has violated and continues to violate that provision, the treaty is, of course, voidable at the pleasure of the United States.

Again, it is well known that the parties to the Clayton-Bulwer treaty anticipated that a canal by the Nicaragua route was to be at once commenced. Under the assumption of a protectorate of Mosquito, British authority was at that time in actual and visible occupation of one end of the Nicaragua route, whether with or without title is not now material, and it was intended by this treaty to dispossess Great Britain of this occupation. This object was accomplished in 1859 and 1860 by treaties between Great Britain, Guatemala, Honduras, and Nicaragua, referred to in Lord Granville's dispatch of January 14, 1882. It was to this adjustment, which was one of the prime objects of the treaty, and not to the colonization of British Honduras that Mr. Buchanan in his message of December 3, 1860, alludes as "an amicable and honorable adjustment of dangerous questions arising from the Clayton-Bulwer treaty."

When the Clayton-Bulwer treaty was concluded it was contemplated that the Nicaragua Canal, to which the treaty principally had relation, would be at once commenced and finished with all possible speed by American and British capital under the impulse of the joint protectorate. This appears not only from the context of the treaty, but also from the history of the negotiations which led to the treaty, and the relations which then existed between this government and the Central American states.

On December 12, 1846, New Grenada, by a treaty of commerce, in consideration of certain guarantees, made the United States valuable grants relating to the Panama route, to which your attention will be directed when we consider the rights of this Republic in relation to the Panama route.

The discovery of gold in California soon made it important to find some rapid way of reaching it. Notwithstanding the progress of the Panama Railroad scheme, public feeling was running strongly in favor of a ship-canal large enough to accomodate ocean steamships. Influenced by this strong feeling the minister of the United States in Nicaragua, without instructions, negotiated a treaty with that republic, which conferred upon certain citizens of the United States the valuable right to construct a ship-canal from San Juan on the Atlantic coast to the Pacific. Nicaragua claimed sovereignty over the whole of the line of the proposed canal, while Great Britain, as I have shown, claimed sovereignity over a portion of it occupied by the Mosquito Indians.

At the time of the concession by Nicaragua it would have been impossible to procure in the United States the capital necessary for the construction of a ship-canal from the Atlantic to the Pacific.

Hence it was that, when Mr. Clayton learned of the concession, he at once informed Mr. Crampton, the British minister, saying that the United States did not propose to avail themselves exclusively of these privileges, but wished a canal constructed, and that the claim of Great Britain on behalf of the Mosquito Indians, which the United States could not admit, stood in the way. The Government of the United States, Mr. Clayton said, was persuaded that—

> These considerations, if fairly laid before Her Majesty's Government, would induce Her Majesty's Government to make such an arrangement with regard to the Mosquito Indians as would prevent its being an obstacle to the design in question.

President Taylor was present at the interview, and "cordially concurred." Mr. Crampton reported the conversation to Lord Palmerston the 1st October, and on the 15th of the same month transmitted to him a copy of the concession by Nicaragua to the American company. The 22d November Mr. Abbott Lawrence officially informed Lord Palmerston that an American company, aided by the subscription of a large amount of British capital, had begun to construct the Panama Railroad, and had completed the contracts for iron for it. He transmitted to Lord Palmerston a copy of the guaranty in the treaty of 1846 with New

Grenada, and invited Great Britain to join in the guaranty. In the same note he acquainted Her Majesty's Government with the concession from Nicaragua to the American canal company, and said that the conflicting claims as to Mosquito threw an obstacle in the way of the work, and invited a conversation on the subject. It seems that several conversations were had, since on the 14th of the following December Mr. Lawrence addressed a formal note to Lord Palmerston, in which, after referring to them and again setting forth the concessions for the Panama Railroad and the Nicaragua Canal, and stating that the United States had "disclaimed all intention to settle, annex, colonize, or fortify the territory of Central America, which declaration had been met by a similar disclaimer on the part of Great Britain," and also that Her Majesty's Government "had intimated their willingness to join with the United States in their guaranty of neutrality," he asked in substance, 1st. Whether Great Britain would enter into a treaty with Nicaragua similar to that negotiated by the United States? 2d. Whether Great Britain would enter into a treaty with New Grenada guaranteeing the neutrality of the railway then under construction. 3d. Whether the obstruction of the Mosquito protectorate would be removed? This note was never answered formally in London, but negotiations were transferred to Washington.

Meantime, and in the autumn of 1849, Sir Henry Bulwer had succeeded Mr. Crampton in Washington, and, soon after his arrival, commenced negotiations with Mr. Clayton for a treaty for the protection of a canal.

On the 6th of January, 1850, Sir Henry Bulwer wrote to Lord Palmerston, saying:

> Your lordship is aware that the main interest of the United States in this matter has arisen from its newly acquired possession in the Pacific, and the project of an American company to form a water communication between the two oceans, passing through the lake of Nicaragua and the River San Juan; this company having obtained from the state of Nicaragua the use of its lakes and territory for this purpose, and the use also of the river San Juan, to which Nicaragua lays claim. * * * But it so happens that while it is very difficult, not to say impossible, for Her Majesty's Government to listen to those claims of Nicaragua, our decision with respect to which has been already openly taken, there is no difficulty, I believe, whatsoever in Her Majesty's Government assisting the United States in its general views with respect to that water communication across Central America, which Great Britain must be almost as desirous as the United States to see established. * * * I am disposed to think that the best way of doing this is by a convention between Great Britain and the United States.

Negotiations conducted on this basis progressed so rapidly that on the 3d February, 1850, Sir Henry Bulwer was able to transmit for Lord Palmerston's criticism the full project of a treaty. Extracts from the

covering dispatch fully explain what the treaty was intended to accomplish:

The State of Nicaragua made to an American company, formed for the construction of such a canal, the grant, accompanied by various favors and privileges, of all such portion of the territory claimed by it as the said company require. * * * It was, however, impossible for the contemplated scheme to be executed under any grant from the State of Nicaragua as long as the mouth of the San Juan River was in the hands of another people protected by Great Britain. * * * Both the American company, to which I have alluded, and the American Government, have latterly manifested an earnest desire to have it clearly understood that they will modify all that portion of their original engagement with Nicaragua which secures any advantages to one State which another may not equally enjoy; and if such be the spirit which is to preside over the vast project under consideration, Great Britain has not only no interest in preventing its success, but every interest in forwarding its completion and providing for its security. * * * It is with such views that the inclosed convention has been drawn up, its object being to exclude all question of the disputes between Nicaragua and the Mosquitos; but to settle in fact all that it was essential to settle with regard to these disputes as far as the ship communication between the Atlantic and Pacific and the navigation of the river San Juan were concerned.

The project, which was inclosed in this dispatch, was, in the substance of its provisions and in most of its language, identical with the treaty subsequently concluded, with one marked exception. In the project, Article VII stopped with the general provision to give encouragement and support to the first parties offering to commence the work with the necessary capital. In the subsequent negotiations the following words were added to that article, and form part of Article VII of the executed treaty:

And if any persons or company should already have, with any State through which the proposed ship-canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money and trouble on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if at the expiration of the aforesaid period such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

The Clayton-Bulwer treaty was concluded on the 19th of the following April, and I think it will not be denied that the object which President Taylor, Mr. Clayton, Sir Henry Bulwer, and Lord Palmerston had in view in making it was primarily and mainly this: To insure at the earliest possible moment the completion of the particular ship-canal for

which a concession had been made by Nicaragua to citizens of the United States on the 29th August, 1849. All the interviews of which accounts remain, and all the correspondence relate to this particular canal and to no other. As if to make assurance doubly sure, the project of a treaty which Sir Henry Bulwer sent to Lord Palmerston the 3d of February being found doubtful or insufficient in this respect, was so amended between that time and the 19th April as to make it practically certain that that grant would be accepted by both governments as the one covered by the treaty.

It was to this particular canal that were to be applied all the provisions of the first article in the treaty relating to the fortification of the canal, the control over it, and exclusive advantage in it; of the second article, relating to blockade, detention or capture; of the third and fourth articles, relating to protection during construction and to free ports; of the fifth article, in regard to a guaranty of neutrality; of the sixth article, with regard to treaties with other States, and the use of the good offices of the high contracting parties; and of the seventh article, as already noticed; but if under the provisions of the seventh article the claims of the holders of this particular concession should be set aside, then each government reserved to itself the right to determine whether its interests required it to afford protection to the holders of any other concession.

The two governments did, however, subsequently come to a harmonious agreement with regard to the grant by Nicaragua, the one contemplated by the treaty.

The company was organized, and Colonel Childs, who had been chief engineer of the canals of the State of New York, was sent to Nicaragua to make a survey. He arrived there in August, 1850, and in 1852 his report was received, printed, and laid before the Secretary of War by direction of the President, who detailed Colonel Abert and Lieutenant-Colonel Turnbull, of the United States Army, to examine it and give their opinions upon it. They approved the report on the 20th March, 1852.

On the 16th June, in the same year, Mr. Lawrence informed Lord Malmesbury of these facts, and requested Her Majesty's Government to appoint engineers of skill and experience to examine it on the part of that government.

Mr. Lawrence was on the 30th July informed that an officer of the royal engineers and an eminent civil engineer had been appointed for that

purpose, and on the 13th August their report was transmitted to Mr. Lawrence by Lord Malmesbury. The report was favorable, and a combination of British capitalists was made in contemplation of united action with American shareholders in the construction of the canal. For reasons which need not now be repeated, but principally because of the discussion which immediately began as to the clauses of the treaty relating to settlements in British Honduras, the project failed, and no canal was ever constructed under that grant.

A line of steamers was put on and run for many years, carrying passengers between New York and San Francisco. The expedition of Walker into Nicaragua terminated this line. The grant was revoked, the steamers were seized; the stockholders received no benefit from their property, and although the company nominally exists, it has been practically superseded by subsequent grants from Nicaragua to other companies.

It was also agreed in the treaty that the parties should invite other states to enter into similar stipulation, to the end that they might share in the "honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated," to wit, that by the Nicaragua route.

It is to be observed that if other nations were to become parties to the enterprise it was only on the joint invitation of both the United States and Great Britain; but the President regards the provision as lapsed by the failure to construct the canal to which it referred, and by the fact before stated that experience has shown that no joint protectorate for any canal across the isthmus is requisite. The canal, however, now in question is on the Panama and not on the Nicaragua route.

The remaining subject of the treaty is contained in the eighth article, which relates to a canal or railway across the isthmus other than by the Nicaragua route, as by way of Tehuantepec or Panama, and it is this provision of the treaty which has occasioned this correspondence. The article provides as follows:

> The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a *particular object* [to wit, the Nicaragua Canal, which, at the date of the treaty, it was thought was about to be constructed], but also to establish a general principle, they hereby agree to extend their protection, by *treaty stipulations*, to any other communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama.

It is to be here observed that the Government of the United States has a treaty with New Grenada, now a part of the United States of Colombia, entered into in 1846, by which free transit is guarantied to the citizens of the United States across the Isthmus of Panama upon any mode of communication that may be constructed, subject to no duties or burdens but such as may be imposed upon citizens of New Grenada; and by which, in order to secure the tranquil and constant enjoyment of these advantages, the United States guarantied, positively and efficaciously, the *perfect neutrality of the isthmus*, with the view that free transit from sea to sea might not be interrupted or embarrassed, and also guarantied the rights of sovereignty and property which New Grenada (now the United States of Colombia) had and possesses over said territory.

By this treaty with New Grenada the United States claim to occupy a peculiar relation to the means of transit by railroad or canal across the isthmus, within the territories of the United States of Colombia, a relation which cannot justly be superseded by the intervention of other States without the consent of the United States, duly and properly obtained. A protectorate of this kind is, like government, necessarily exclusive in its character, and implies a right and duty to make it effective. There may be a joint protectorate engaged in by mutual convention of different States, but the protectorate itself must be a unit. The treaty with New Grenada of 1846 still remains in full force. If Great Britain should desire to be united with the Government of the United States in that guaranty, of course it would require the consent of the United States of Colombia and of this government, and a convention to that end, the terms of which should be made agreeable to the parties.

Article VIII of the Clayton-Bulwer treaty relates only to those projects *now* [1850] proposed to be established; and expressly contemplates some further "treaty stipulation" on the part of Great Britain with the United States of America and New Grenada, now the United States of Colombia, before Great Britain can join the United States in the protectorate of the canal or railway by the Panama route. No such treaty stipulation has been made or has been proposed by Great Britain. Since the ratification of the Clayton-Bulwer treaty, for thirty years the United States, under the treaty of 1846 with New Grenada, has extended protection to the transit from sea to sea by the Panama Railway.

Should Her Majesty's Government, after obtaining the consent thereto

of the United States of Colombia, claim, under the Clayton-Bulwer treaty, the right to join the United States in the protection of the existing Panama Railway, or any future Panama canal, the United States would submit that experience has shown that no such joint protectorate is requisite; that the Clayton-Bulwer treaty is subject to the provisions of th · treaty of 1846 with New Grenada, while it exists, which treaty obliges the United States to afford, and secures to it the sole protectorate of any transit by the Panama route; and if Great Britain still claimed the right to join in the protectorate the United States would then determine whether the "treatv stipulations" proposed by Great Britain regulating that joint protectorate were just; and, if so, whether the length of time during which Great Britain has concurred in the protection of the Panama route under the treaty with New Grenada has or has not relieved the United States from any obligation to accept a proposal from the government to join in the guaranty.

I may then state the President's views on the whole subject, which I do with an assurance that they will meet with a candid consideration from Lord Granville, and with the hope that they may be substantially concurred in by Her Majesty's Government.

The Clayton-Bulwer treaty was concluded to secure a thing which did not exist, and which now never can exist. It was to secure the construction of a canal under the grant of 1849 from Nicaragua that the United States consented to waive the exclusive and valuable rights which had been given to them; that they consented to agree with Great Britain that they would not occupy, fortify, colonize, or assume dominion over any part of Central America; and that they consented to admit Her Majesty's Government at some future day to a share in the protection which they have exercised over the Isthmus of Panama.

The Government and people of the United States, though rich in land and industry, were poor in money and floating capital in 1850. The scheme for a canal, even without the complications of the Mosquito protectorate, was too vast for the means of the Americans of that day, who numbered then considerably less than one-half of their numbers to-day. They went to England, which had what they had not, surrendered their exclusive privileges, offered an equal share of all they had in those regions in order, as expressed in the seventh article of the treaty, "that no time should be unnecessarily lost in commencing and constructing the said canal." Through no fault of theirs time was unnecessarily lost, the work was never begun, and the concession failed.

The President does not think that the United States are called upon by any principle of equity to revive those provisions of the Clayton-Bulwer treaty which were specially applicable to the concession of August, 1849, and apply them to any other concession which has been since or may hereafter be made. The conditions of 1882 are not those of 1852. The people of the United States have now abundance of surplus capital for such enterprises, and have no need to call upon foreign capitalists. The legislative branch of the Government of the United States may also desire to be free to place the credit of the United States at the service of one or more of these enterprises. The President does not feel himself warranted in making any engagement or any admission respecting the extinct provisions of the Clayton-Bulwer treaty which would prevent or interfere with such a purpose. On the contrary, frankness requires him to say that as the persons who held the grant which the United States understood to be accepted by the two governments under the provisions of the treaty have not "carried out the proposed enterprise," the United States esteem themselves competent to refuse to afford their protection jointly with Great Britain to any other persons or company, and hold themselves free hereafter to protect any interoceanic communication in which they or their citizens may become interested in such way as treaties with the local sovereign powers may warrant and their interests may require.

There are some provisions of the treaty which the President thought might be advantageously retained. With this purpose the present correspondence was opened by the note to you of the 19th November last, in which these points were indicated. The President is still ready on the part of the United States to agree that the reciprocal engagements respecting the acquisition of territory in Central America, and respecting the establishment of a free port at each end of whatever canal may be constructed, shall continue in force, and to define by agreement the distance from either end of the canal where captures may be made by a belligerent in time of war, and with this definition thus made to keep alive the second article of the treaty. He hopes that Lord Granville on further consideration may not be averse to revising his opinion that such agreements would not be beneficial.

To the suggestion made by Lord Granville, at the close of this note of January 7, that the United States should take the initiative in an invitation to other powers to participate in an agreement based upon the convention of 1850, the President is constrained, by the considera-

tions already presented, to say that the United States cannot take part in extending such an invitation, and to state with entire frankness, that the United States would look with disfavor upon an attempt at a concert of political action by other powers in that direction.

It is not necessary to observe that there is no provision of the Clayton-Bulwer treaty which authorizes Great Britain to invite, or obliges the United States to accept, the aid of other nations to protect or to guarantee the neutrality of the Panama route.

Fortunately the want of harmony in the views of the two governments can have at present no injurious influence. No canal yet exists across the isthmus, and in the natural course of events some time must elapse before one can be constructed; meanwhile the points of divergence between Her Majesty's Government and that of the United States may disappear. The President hopes that long before the subject becomes one of practical importance Her Majesty's Government may be brought to see that the interests of Great Britain and of the United States in this matter are identical, and are best promoted by the peaceful policy which he has marked out for this country.

In the mean time the diversity of opinion which now exists will not in any wise impair the good understanding happily existing between the people and Governments of the United States and Great Britain.

You will read this dispatch to Lord Granville, and if he desires to have a copy of it you may leave one with him.

I am, sir, your obedient servant,

FREDK. T. FRELINGHUYSEN.

II.

EXPLANATORY DOCUMENTS AND PAPERS.

1.—*Definite Treaty of Peace between Great Britain and Spain. Signed at Paris, the 10th of February*, 1763.

[Extract.]

XVII. His Britannic Majesty shall cause to be demolished all the fortifications which his Subjects shall have erected in the Bay of Honduras, and other places of the Territory of Spain in that part of the World, 4 months after the Ratification of the present Treaty; and His Catholic Majesty shall not permit His Britannic Majesty's Subjects, or their Workmen, to be disturbed or molested, under any pretence whatsoever, in the said places, in their occupation of cutting, loading and carrying away logwood; and for this purpose, they may build without hindrance, and occupy without interruption, the houses and magazines which are necessary for them, for their families and for their effects; and His Catholic Majesty assures to them, by this Article, the full enjoyment of those advantages and powers on the Spanish Coasts and Territories, as above stipulated, immediately after the Ratification of the present Treaty.

2.—*Definitive Treaty of Peace between Great Britain and Spain. Signed at Versailles, 3d September*, 1783.

[Extract.]

VI. The intention of the 2 High Contracting Parties being to prevent as much as possible, all the causes of complaint and misunderstanding heretofore occasioned by the cutting of wood for dyeing, or log-wood; and several English settlements having been formed and extended, under that pretence, upon the Spanish continent; it is expressly agreed, that His Britannic Majesty's Subjects shall have the right of cutting, loading and carrying away logwood, in the District lying between the Rivers Wallis or Bellize, and Rio Hondo, taking the course of the said 2 Rivers for unalterable boundaries, so as that the navigation of them be common to both Nations, to wit: by the River Wallis or Bellize, from the sea, ascending as far as opposite to a Lake or Inlet which runs into the land and forms an Isthmus or Neck, with another similar inlet, which comes from the side of Rio-Nuevo, or New River; so that the line of separation shall pass straight across the said Isthmus, and meet another Lake formed by the water of Rio Nuevo, or New River, at its current. The said line shall continue with the course of Rio Nuevo, descending as far as opposite to a River, the source of which is marked in the Map, between Rio-Nuevo and Rio-Hondo, and which empties itself into Rio Hondo; which River shall also serve as a common boundary, so far as its junction with Rio-Hondo, and from thence descending

by Rio-Hondo to the sea, as the whole is marked on the map which the Plenipotentiaries of the 2 Crowns have thought proper to make use of, for ascertaining the points agreed upon, to the end that a good correspondence may reign between the 2 Nations, and that the English Workmen, Cutters, and Laborers may not trespass, from an uncertainty of the Boundaries. The respective Commissaries shall fix upon convenient places, in the Territory above marked out, in order that His Britannic Majesty's Subjects, employed in the felling of logwood, may, without interruption, build therein houses and magazines necessary for themselves, their Families, and their effects: and His Catholic Majesty assures to them the enjoyment of all that is expressed in the present article; provided that these Stipulations shall not be considered as derogating in any wise from his Rights of Sovereignty. Therefore all the English, who may be dispersed in any other parts, whether on the Spanish Continent, or in any of the Islands whatsoever, dependent on the aforesaid Spanish Continent, and for whatever reason it might be, without exception, shall retire within the District which has been above described, in the space of 18 months, to be computed from the exchange of the Ratifications; and for this purpose Orders shall be issued on the part of His Britannic Majesty; and on that of His Catholic Majesty, his Governors shall be ordered to grant to the English, dispersed, every convenience possible for their removing to the Settlement agreed upon by the present Article, or for their retiring wherever they shall think proper. It is likewise stipulated, that if any Fortifications should actually have been heretofore erected within the limits marked out, His Britannic Majesty shall cause them all to be demolished, and he will order his Subjects not to build any new ones. The English Inhabitants, who shall settle there for the cutting of log-wood, shall be permitted to enjoy a free Fishery for their subsistence, on the Coasts of the District above agreed on, or of the Islands situated opposite thereto, without being in any wise disturbed on that account; provided they do not establish themselves in any manner on the said Islands.

3.—*Convention between Great Britain and Spain, relative to America. Signed at London, the 14th of July*, 1786.

The Kings of England and of Spain animated with the same desire of consolidating, by every means in their power, the friendship so happily subsisting between them and their Kingdoms, and wishing with one accord to prevent even the shadow of misunderstanding which might be occasioned by doubts, misconceptions, or other causes of dispute between the Subjects on the Frontiers of the 2 Monarchies, especially in distant Countries as are those in America, have thought proper to settle, with all possible good faith, by a new Convention, the points which might one day or other, be productive of such inconveniences, as the experience of former times has very often shown.

To this end, the King of Great Britain has named the Most Noble and Most Excellent Lord, Francis Baron Osborne, of Kiveton, Marquis of Carmarthen, His Britannic Majesty's Privy Councillor, and Principal Secretary of State for the Department for Foreign Affairs, &c., &c., &c., and the Catholic King has likewise authorized Don Bernardo del Campo, Knight of the Noble Order of Charles the Third, Secretary of the same Order, Secretary of the Supreme Council of State, and his Minister

Plenipotentiary to the King of Great Britain: who having communicated to each other their respective Full Powers, prepared in due form, have agreed upon the following Articles:

ART. I. His Britannic Majesty's Subjects, and the other Colonists who have hitherto enjoyed the protection of England, shall evacuate the Country of the Mosquitos, as well as the Continent in general, and the Islands adjacent, without exception, situated beyond the Line hereinafter described, as what ought to be the Frontier of the extent of Territory granted by His Catholic Majesty to the English, for the uses specified in the IIIrd Article of the present Convention, and in addition to the Country already granted to them in virtue of the Stipulations agreed upon by the Commissaries of the 2 Crowns, in 1783.

II. The Catholic King, to prove, on his side, to the King of Great Britain, the sincerity of his sentiments of friendship towards His said Majesty and the British Nation, will grant to the English more extensive limits than those specified in the last Treaty of Peace: and the said limits of the Lands added by the present Convention shall for the future be understood in the manner following:

The English Line, beginning from the Sea, shall take the centre of the River Sibun or Jabon, and continue up to the source of the said River; from thence it shall cross in a straight line the intermediate land, till it intersects the River Wallis; and by the centre of the same River, the said Line shall descend to the point where it will meet the Line already settled and marked out by the Commissaries of the 2 Crowns in 1783: which limits, following the continuation of the said Line, shall be observed as formerly stipulated by the Definitive Treaty.

III. Although no other advantages have hitherto been in question, except that of cutting wood for dyeing, yet His Catholic Majesty, as a greater proof of his disposition to oblige the King of Great Britain, will grant to the English the liberty of cutting all other wood, without even excepting mahogany, as well as gathering all the fruits or produce of the earth, purely natural and uncultivated, which may, besides being carried away in their natural state, become an object of utility or of commerce, whether for food or for manufactures; but it is expressly agreed, that this Stipulation is never to be used as a pretext for establishing in that country any plantation of sugar, coffee, cocoa, or other like articles: or any fabric or manufacture by means of mills or other machines whatsoever, (this restriction however does not regard the use of saw-mills, for cutting or otherwise preparing the wood,) since all the Lands in question being indisputably acknowledged to belong of right to the Crown of Spain, no Settlements of that kind, or the Population which would follow, could be allowed.

The English shall be permitted to transport and convey all such wood, and other produce of the place, in its natural and uncultivated state, down the Rivers to the Sea, but without ever going beyond the limits which are prescribed to them by the Stipulations above granted, and without thereby taking an opportunity of ascending the said Rivers, beyond their bounds, into the countries belonging to Spain.

IV. The English shall be permitted to occupy the small Island known by the names of Casina, St. George's Key, or Cayo Casina, in consideration of the circumstance of that part of the coasts opposite to the said Island being looked upon as subject to dangerous disorders; but this permission is only to be made use of for purposes of real utility: and as great abuses, no less contrary to the intentions of the British Government than to the essential interests of Spain, might arise from this permission, it is here stipulated, as an indispensable condition, that no

Fortification, or work of defence whatever, shall at any time be erected there, nor any body of Troops posted, nor any piece of Artillery kept there; and in order to verify with good faith the accomplishment of this condition *sine quâ non* (which might be infringed by Individuals, without the knowledge of the British Government) a Spanish Officer or Commissary, accompanied by an English Commissary or Officer, duly authorized, shall be admitted, twice a year, to examine into the real situation of things.

V. The English nation shall enjoy the liberty of re-fitting their Merchant Ships in the southern triangle included between the point of Cayo Casina and the cluster of small Islands which are situated opposite that part of the coast occupied by the Cutters, at the distance of 8 leagues from the River Wallis, 7 from Cayo Casina, and 3 from the River Sibun, a place which has always been found well-adapted to that purpose. For which end, the edifices and storehouses, absolutely necessary for that service, shall be allowed to be built; but in this concession is also included the express condition of not erecting Fortifications there at any time, or stationing Troops, or constructing any military works; and in like manner it shall not be permitted to station any Ships of War there, or to construct an arsenal or other building, the object of which might be the formation of a naval establishment.

VI. It is also stipulated, that the English may freely and peaceably catch Fish on the coast of the Country assigned to them by the last Treaty of Peace, as also of that which is added to them by the present Convention; but without going beyond their boundaries, and confining themselves within the distance specified in the preceding Article.

VII. All the restrictions specified in the last Treaty of 1783, for the entire preservation of the right of the Spanish Sovereignty over the country, in which is granted to the English only the privilege of making use of the wood of the different kinds, the fruits and other produce, in their natural state, are here confirmed; and the same restrictions shall also be observed with respect to the new grant. In consequence, the Inhabitants of those Countries shall employ themselves simply in the cutting and transporting of the said wood, and in the gathering and transporting of the fruits, without meditating any more expensive Settlements, or the formation of any system of Government, either military or civil, further than such regulations as Their Britannic and Catholic Majesties may hereafter judge proper to establish, for maintaining peace and good order amongst their respective Subjects.

VIII. As it is generally allowed that the woods and forests are preserved, and even multiply, by regular and methodical cuttings, the English shall observe this maxim as far as possible; but if, notwithstanding all their precautions, it should happen, in course of time, that they were in want of dyeing-wood or mahogany, with which the Spanish Possessions might be provided, the Spanish Government shall make no difficulty to furnish a supply to the English at a fair and reasonable price.

IX. Every possible precaution shall be observed to prevent smuggling; and the English shall take care to conform to the regulations which the Spanish Government shall think proper to establish amongst their own Subjects, in all communications which they may have with the latter; on condition, nevertheless, that the English shall be left in the peaceable enjoyment of the several advantages inserted in their favour in the last Treaty, or stipulated by the Present Convention.

X. The Spanish Governors shall be ordered to give to the said English, dispersed, all possible facilities for their removal to the Settlements

agreed upon by the present Convention, according to the Stipulations of the VIth Article of the Definitive Treaty of 1783, with respect to the Country allotted for their use by the said Article.

XI. Their Britannic and Catholic Majesties, in order to remove every kind of doubt with regard to the true construction of the present Convention, think it necessary to declare that the conditions of the said Convention ought to be observed according to their sincere intention to ensure and improve the harmony and good understanding which so happily subsist at present between Their said Majesties.

In this view, His Britannic Majesty engages to give the most positive orders for the evacuation of the Countries above-mentioned, by all his Subjects, of whatever denomination; but if, contrary to such Declaration, there should still remain any Persons so daring as to presume, by retiring into the interior Country, to endeavor to obstruct the entire evacuation already agreed upon, His Britannic Majesty, so far from affording them the least succour, or even protection, will disavow them in the most solemn manner, as he will equally do those who may here after attempt to settle upon the Territory belonging to the Spanish Dominion.

XII. The evacuation agreed upon shall be completely effected within the space of 6 months after the exchange of the Ratifications of this Convention, or sooner if it can be done.

XIII. It is agreed that the new grants described in the preceding Articles, in favor of the English Nation, are to take place as soon as the aforesaid evacuation shall be entirely accomplished.

XIV. His Catholic Majesty, prompted solely by motives of humanity, promises to the King of England, that he will not exercise any act of severity against the Mosquitos, inhabiting in part the Countries which are to be evacuated, by virtue of the present Convention, on account of the connections which may have subsisted between the said Indians and the English; and His Britannic Majesty, on his part, will strictly prohibit all his Subjects from furnishing arms or war-like stores to the Indians in general, situated upon the Frontiers of the Spanish Possessions.

XV. The 2 Courts shall mutually transmit to each other Duplicates of the Orders which they are to dispatch to their respective Governors and Commanders in America, for the accomplishment of the present convention; and a Frigate, or proper Ship of War, shall be appointed on each side, to observe in conjunction that all things are performed in the best order possible, and with that cordiality and good faith of which the 2 Sovereigns have been pleased to set the example.

XVI. The present Convention shall be ratified by Their Britannic and Catholic Majesties, and the Ratifications exchanged, within the space of 6 weeks, or sooner if it can be done.

In witness whereof, we, the undersigned Ministers Plenipotentiary to Their Britannic and Catholic Majesties, in virtue of our respective Full Powers, have signed the present Convention, and have affixed thereto the Seals of our Arms.

Done at London, this 14th day of July 1786.

[L. S.] CARMARTHEN
[L. S.] LE CHEVR. DEL CAMPO.

DECLARATION.

At the time of exchanging our Sovereigns' Ratifications of the Convention signed the 14th of July last, we the Undersigned Ministers

Plenipotentiary have agreed, that the visit of the English and Spanish Commissaries, mentioned in the IVth Article of the said Convention with respect to the Island of Cayo Casina, is to extend in like manner to all the other places, whether in the Islands or on the Continent, where the English Cutters shall be situated.

In witness whereof, we have signed this Declaration, and affixed thereto the Seals of our Arms.

London, this 1st of September 1786.

[L. S.] CARMARTHEN.
[L. S.] LE MARQUIS DEL CAMPO.

4.—*President Monroe's message to Congress, March* 8, 1822.

[Extract.]

The revolutionary movement in the Spanish provinces in this hemisphere attracted the attention and excited the sympathy of our fellow citizens from its commencement.

This feeling was natural and honorable to them, from causes which need not be communicated to you. It has been gratifying to all to see the general acquiescence which has been manifested in the policy which the constituted authorities have deemed it proper to pursue in regard to this contest. As soon as the movement assumed such a steady and consistent form as to make the success of the provinces probable, the rights to which they were entitled by the laws of nations, as equal parties to a civil war, were extended to them. Each party was permitted to enter our ports with its public and private ships, and to take from them every article which was the subject of commerce with other nations. Our citizens also have carried on commerce with both parties, and the Government has protected it with each in articles not contraband of war. Through the whole of this contest the United States have remained neutral, and have fulfilled with the utmost impartiality all the obligations incident to that character.

This contest has now reached such a stage, and been attended with such decisive success on the part of the provinces, that it merits the most profound consideration whether their right to the rank of independent nations, with all the advantages incident to it in their intercourse with the United States, is not complete. Buenos Ayres assumed that rank by a formal declaration in 1816, and has enjoyed it since 1810, free from invasion by the parent country. The provinces composing the Republic of Colombia, after having separately declared their independence, were united by a fundamental law of the 17th of December, 1819. A strong Spanish force occupied at that time certain parts of the territory within their limits, and waged a destructive war. That force has since been repeatedly defeated, and the whole of it either made prisoners or destroyed, or expelled from the country, with the exception of an inconsiderable portion only which is blockaded in two fortresses.

The provinces on the Pacific have likewise been very successful. Chili declared her independence in 1818, and has since enjoyed it undisturbed; and of late, by the assistance of Chili and Buenos Ayres, the revolution has extended to Peru. Of the movement in Mexico our information is less authentic, but it is, nevertheless, distinctly understood that the new government has declared its independence, and that there

is now no opposition to it there, nor a force to make any. For the last three years the Government of Spain has not sent a single corps of troops to any part of that country; nor is there any reason to believe it will send any in future. Thus, it is manifest that all those provinces are not only in the full enjoyment of their independence, but, considering the state of the war and other circumstances, that there is not the most remote prospect of their being deprived of it.

When the result of such a contest is manifestly settled, the new governments have a claim to recognition by other powers which ought not to be resisted. Civil wars too often excite feelings which the parties cannot control. The opinion entertained by other powers as to the result may assuage those feelings, and promote an accommodation between them useful and honorable to both. The delay which has been observed in making a decision on this important subject will, it is presumed, have afforded an unequivocal proof to Spain, as it must have done to other powers, of the high respect entertained by the United States for her rights, and of their determination not to interfere with them. The provinces belonging to this hemisphere are our neighbors, and have successively, as each portion of the country acquired its independence, pressed their recognition by an appeal to facts not to be contested, and which they thought gave a just title to it.

To motives of interest this government has invariably disclaimed all pretension, being resolved to take no part in the controversy or other measures in regard to it which should not merit the sanction of the civilized world.

To other claims a just sensibility has been always felt and frankly acknowledged; but they in themselves could never become an adequate cause of action. It was incumbent on this government to look to every important fact and circumstance on which a sound opinion could be formed, which has been done. When we regard, then, the great length of time which this war has been prosecuted, the complete success which has attended it in favor of the provinces, the present condition of the parties, and the utter inability of Spain to produce any change in it, we are compelled to conclude that its fate is settled, and that the provinces which have declared their independence, and are in the enjoyment of it, ought to be recognized.

Of the views of the Spanish government on this subject no particular information has been recently received. It may be presumed that the successful progress of the revolution through such a long series of years, gaining strength and extending annually in every direction, and embracing, by the late important events, with little exception, all the dominions of Spain south of the United States on this continent, placing thereby the complete sovereignty over the whole in the hands of the people, will reconcile the parent country to an accommodation with them on the basis of their unqualified independence. Nor has any authentic information been recently received of the disposition of other powers respecting it. A sincere desire has been cherished to act in concert with them in the proposed recognition, of which several were some time past duly apprised; but it was understood that they were not prepared for it. The immense space between those powers, even those which border on the Atlantic, and these provinces make the movement an affair of less interest and excitement to them than to us. It is probable therefore that they have been less attentive to its progress than we have been. It may be presumed, however, that the late events will dispel all doubts of the result.

5.—*Observations of John Quincy Adams on the claim of Russia to territorial possessions on the continent of North America, communicated with Mr. Adams' letter to Mr. Middleton of July* 22, 1823.

[Extract.]

There can perhaps be no better time for saying frankly and explictly to the Russian Government that the future peace of the world and the interest of Russia herself cannot be promoted by Russian settlements upon any part of the American continent. With the exception of the British establishments north of the United States, the remainder of both the American continents must henceforth be left to the management of American hands.

It cannot possibly be the purpose of Russia to form extensive colonial establishments in America. The new American republics will be as impatient of a Russian neighbor as the United States; and the claim of Russia to territorial possessions extending to the fifty-first degree of north latitude is equally compatible with the British pretensions.

Mr. John Quincy Adams to Mr. Rush.

[Extract.]

No. 70.] DEPARTMENT OF STATE,
Washington, July 22, 1823.

SIR: * * * It is not imaginable that, in the present condition of the world, any European nation should entertain the project of settling a colony on the northwest coast of America. That the United States should form establishments there with views of absolute territorial right and inland communication, is not only to be expected, but is pointed out by the finger of nature, and has been for years a subject of serious deliberation in Congress. A plan has for several sessions been before them for establishing a territorial government on the borders of the Columbia River. It will undoubtedly be resumed at their next session, and even if then again postponed, there cannot be a doubt that in the course of a very few years it must be carried into effect.

* * * * * * *

The application of colonial principles of exclusion, therefore, cannot be admitted by the United States as lawful upon any part of the northwest coast of America, or as belonging to any European nation. Their own settlements there, when organized as territorial governments, will be adapted to the freedom of their own institutions, and, as constituent parts of the Union, be subject to the principles and provisions of their constitution. * * * * *

I have, &c.,

JOHN QUINCY ADAMS.

6.—*Mr. Rush to Mr. John Quincy Adams.*

No. 323.] LONDON, *August* 19, 1823. (Received October 9.)

SIR: When my interview with Mr. Canning, on Saturday, was about to close, I transiently asked him whether, notwithstanding the late news from Spain, we might not still hope that the Spaniards would get the better

of all their difficulties. I had allusion to the defection of Ballasteros in Andalusia, an event seeming to threaten with new dangers the Constitutional cause. His reply was general, importing nothing more than his opinion of the increased difficulties and dangers with which, undoubtedly, this event was calculated to surround the Spanish cause.

Pursuing the topic of Spanish affairs, I remarked that should France ultimately effect her purposes in Spain, there was at least the consolation left that Great Britain would not allow her to go further and lay her hands upon the Spanish colonies, bringing them, too, under her grasp. I here had in my mind the sentiments promulgated upon this subject in Mr. Canning's note to the British ambassador at Paris of the 31st of March, during the negotiations that preceded the invasion of Spain. It will be recollected that the British Government say in this note that time and the course of events appeared to have substantially decided the question of the separation of these colonies from the mother country, although their formal recognization as independent states by Great Britain might be hastened or retarded by external circumstances, as well as by the internal condition of those new states themselves; and that as His Britannic Majesty disclaimed all intention of appropriating to himself the smallest portion of the late Spanish possessions in America, he was also satisfied that no attempt would be made by France to bring any of them under *her* dominion, either by conquest or by cession from Spain.

By this we are to understand, in terms sufficiently distinct, that Great Britain would not be passive under such an attempt by France, and Mr. Canning, on my having referred to this note, asked me what I thought my government would say to going hand in hand with this, in the same sentiment; not, as he added, that any concert in action under it could become necessary between the two countries, but that the simple fact of our being known to hold the same sentiment would, he had no douht, by its moral effect, put down the intention on the part of France, admitting that she should ever entertain it. This belief was founded, he said, upon the large share of the maritime power of the world which Great Britain and the United States shared between them, and the consequent influence which the knowledge that they held a common opinion upon a question on which such large maritime interests, present and future, hung, could not fail to produce upon the rest of the world.

I replied that in what manner my government would look upon such a suggestion I was unable to say, but that I would communicate it in the same informal manner in which he threw it out. I said, however, that I did not think I should do so with full advantage, unless he would at the same time enlighten me as to the precise situation in which His Majesty's Government stood at this moment in relation to those new states, and especially on the material point of their own independence.

He replied that Great Britain certainly never again intended to lend her instrumentality or aid, whether by mediation or otherwise, towards making up the dispute between Spain and her colonies, but that if this result could still be brought about she would not interfere to *prevent* it. Upon my intimating that I had supposed that all idea of Spain ever recovering her authority over the colonies had long since gone by, he explained by saying that he did not mean to controvert that opinion, for he, too, believed that the day had arrived when all America might be considered as lost to Europe so far as the tie of political dependence was concerned. All that he meant was, that if Spain and the colonies should still be able to bring the dispute, not yet totally extinct between

them, to a close upon terms satisfactory to both sides, and which should at the same time secure to Spain commercial or other advantages not extended to other nations, that Great Britain would not object to a compromise in this spirit of preference to Spain. All that she would ask would be to stand upon as favored a footing as any other nation after Spain. Upon my again alluding to the improbability of the dispute ever settling down now even upon this basis, he said that it was not his intention to maintain such a position, and that he had expressed himself as above rather for the purpose of indicating the feeling which this cabinet still had towards Spain in relation to the controversy than of predicting results.

Wishing, however, to be still more specifically informed, I asked whether Great Britain was at this moment taking any step, or contemplating any, which had reference to the recognition of these States, this being the point in which we felt the chief interest.

He replied that she had taken none whatever, as yet, but was upon the eve of taking one, not final, but preparatory, and which would still leave her at large to recognize or not, according to the position of events at a future period. The measure in question was to send out one or more individuals under authority from this government to South America, not strictly diplomatic, but clothed with powers in the nature of a commission of inquiry, and which in short he described as analogous to those exercised by our own commissioners in 1817, and that upon the result of this commission much might depend as to the ulterior conduct of great Britain. I asked whether I was to understand that it would comprehend all the new States, or which of them. To which he replied that for the present it would be limited to Mexico.

Reverting to his first idea, he again said that he hoped that France would not, should even events in the Peninsula be favorable to her, extend her views to South America for the purpose of reducing the colonies, nominally, perhaps, for Spain, but in effect to subserve ends of her own; but that, in case she should meditate such a policy, he was satisfied that the knowledge of the United States being opposed to it, as well as Great Britain, could not fail to have its influence in checking her steps. In this way he thought good might be done by prevention, and peaceful prospects all around increased. As to the form in which such knowledge might be made to reach France, and even the other powers of Europe, he said, in conclusion, that that might probably be arranged in a manner that would be free from objection.

I again told him that I would convey his suggestions to you for the information of the President, and impart to him whatever reply I might receive. My own inference rather is that his proposition was a fortuitous one; yet he entered into it, I thought, with some interest, and appeared to receive with a corresponding satisfaction the assurance I gave him that it should be made known to the President. I did not feel myself at liberty to express any opinion unfavorable to it, and was as careful to give none in its favor.

Mr. Canning mentioned to me, at this same interview, that a late confidential dispatch which he had seen from Count Nesselrode to Count Lieven, dated, I think, in June, contained declarations respecting the Russian ukase, relative to the northwest coast, that were satisfactory; that they went to show that it would probably not be executed in a manner to give cause of complaint to other nations, and that, in particular, it had not yet been executed in any instance under orders issued by Russia subsequently to its first promulgation.

I have, &c., RICHARD RUSH.

7.—*Mr. Rush to Mr. John Quincy Adams.*

No. 325.] LONDON, *August* 23, 1823. (Received October 9.)

SIR: I yesterday received from Mr. Canning a note, headed "private and confidential," setting before me, in a more distinct form, the proposition respecting South American affairs which he communicated to me in conversation on the 16th, as already reported in my number 323. Of his note I lose no time in transmitting a copy for your information, as well as a copy of my answer to it, written and sent this day.

In shaping the answer on my own judgment alone, I feel that I have had a task of some embarrassment to perform, and shall be happy if it receives the President's approbation.

I believe that this government has the subject of Mr. Canning's proposition much at heart, and certainly his note bears, upon the face of it, a character of cordiality towards the Government of the United States which cannot escape notice.

I have therefore thought it proper to impart to my note a like character and to meet the points laid down in his, as far as I could, consistently with other and paramount considerations.

These I conceived to be chiefly twofold: first, the danger of pledging my government to any measure or course of policy which might in any degree, now or hereafter, implicate it in the federative system of Europe; and, secondly, I have felt myself alike without warrant to take a step which might prove exceptional in the eyes of France, with whom our pacific and friendly relations remain, I presume, undisturbed, whatever may be our speculative abhorrence of her attack upon the liberties of Spain.

In framing my answer, I had also to consider what was due to Spain herself, and I hope that I have not overlooked what was due to the colonies.

The whole subject is open to views on which my mind has deliberated anxiously. If the matter of my answer shall be thought to bear properly upon the motives and considerations which belong most materially to the occasion, it will be a source of great satisfaction to me.

The tone of earnestness in Mr. Canning's note, and the force of some of his expressions, naturally start the inference that the British cabinet cannot be without its serious apprehensions that ambitious enterprises are meditated against the independence of the South American States. Whether by France alone I cannot now say on any authentic grounds.

I have, &c.,

RICHARD RUSH.

Mr. Canning to Mr. Rush.

Private and confidential.] FOREIGN OFFICE, *August* 20, 1823.

MY DEAR SIR: Before leaving town I am desirous of bringing before you in a more distinct, but still in an unofficial and confidential shape, the question which we shortly discussed the last time that I had the pleasure of seeing you.

Is not the moment come when our governments might understand each other as to the Spanish-American colonies? And if we can arrive at such an understanding, would it not be expedient for ourselves, and beneficial for all the world, that the principles of it should be clearly settled and plainly avowed?

For ourselves we have no disguise.

1. We conceive the recovery of the colonies by Spain to be hopeless.

2. We conceive the question of the recognition of them, as independent states, to be one of time and circumstances.

3. We are, however, by no means disposed to throw any impediment in the way of an arrangement between them and the mother country by amicable negotiation.

4. We aim not at the possession of any portion of them ourselves.

5. We could not see any portion of them transferred to any other power with indifference.

If these opinions and feelings are, as I firmly believe them to be, common to your government with ours, why should we hesitate mutually to confide them to each other, and to declare them in the face of the world?

If there be any European power which cherishes other projects, which looks to a forcible enterprise for reducing the colonies to subjugation, on the behalf or in the name of Spain, or which meditates the acquisition of any part of them to itself, by cession or by conquest, such a declaration on the part of your government and ours would be at once the most effectual and the least offensive mode of intimating our joint disapprobation of such projects.

It would at the same time put an end to all the jealousies of Spain with respect to her remaining colonies, and to the agitation which prevails in those colonies, an agitation which it would be but humane to allay, being determined (as we are) not to profit by encouraging it.

Do you conceive that, under the power which you have recently received, you are authorized to enter into negotiation, and to sign any convention upon this subject? Do you conceive, if that be not within your competence, you could exchange with me ministerial notes upon it?

Nothing could be more gratifying to me than to join with you in such a work, and I am persuaded there has seldom, in the history of the world, occurred an opportunity when so small an effort of two friendly governments might produce so unequivocal a good, and prevent such extensive calamities.

I shall be absent from London but three weeks at the utmost, but never so far distant but that I can receive and reply to any communication within three or four days.

I have, &c.,

GEORGE CANNING.

Mr. Rush to Mr. Canning.

LONDON, *August* 23, 1823.

MY DEAR SIR: Your unofficial and confidential note of the 20th instant reached me yesterday, and has commanded from me all the reflection due to the interest of its subject and to the friendly spirit of confidence upon which it is so emphatically founded.

The Government of the United States having, in the most formal manner, acknowledged the independence of the late Spanish provinces in America, desires nothing more anxiously than to see this independence maintained with stability, and under auspices that may promise prosperity and happiness to these new states themselves, as well as advantage to the rest of the world. As conducing to these great ends, my government has always desired, and still desires, to see them received into the family of nations by the powers of Europe, and especially, I may add, by Great Britain.

My government is also under a sincere conviction that the epoch has arrived when the interests of humanity and justice, as well as all other interests, would be essentially subserved by the general recognition of these states.

Making these remarks, I believe I may confidently say, that the sentiments unfolded in your note are fully those which belong also to my government.

It conceives the recovery of the colonies by Spain to be hopeless.

It would throw no impediment in the way of an arrangement between them and the mother country, by amicable negotiation, supposing an arrangement of this nature to be possible.

It does not aim at the possession of any portion of those communities for or on behalf of the United States.

It would regard as highly unjust and fruitful of disastrous consequences any attempt on the part of any European power to take possession of them by conquest, or by cession, or on any ground or pretext whatever

But in what manner my government might deem it expedient to avow these principles and feelings, or express its disapprobation of such projects as the last, are points which none of my instructions, or the power which I have recently received, embrace; and they involve, I am forced to add, considerations of too much delicacy for me to act upon them in advance.

It will yield me particular pleasure to be the organ of promptly causing to be brought under the notice of the President the opinions and views of which you have made me the depositary upon this subject, and I am of nothing more sure than that he will fully appreciate their intrinsic interest, and not less the frank and friendly feelings towards the United States in which they have been conceived and communicated to me on your part.

Nor do I take too much upon myself when I anticipate the peculiar satisfaction the

President will also derive from the intimation which you have not scrupled to afford me as to the just and liberal determinations of His Majesty's Government in regard to the colonies which still remain to Spain.

With a full reciprocation of the personal cordiality which your note also breathes, and begging you to accept the assurances of my great respect, I have, &c.,

RICHARD RUSH.

8.—*President Monroe's message to Congress December* 2, 1823.

[Extract.]

At the proposal of the Russian Imperial Government, made through the minister of the Emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Petersburg to arrange by amicable negotiation the respective rights and interests of the two nations on the northwest coast of this continent. A similar proposal has been made by His Imperial Majesty to the Government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous by this friendly proceeding of manifesting the great value which they have invariably attached to the friendship of the Emperor, and their solicitude to cultivate the best understanding with his government.

In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting as a principle, in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers.

* * * * * * *

The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the allied powers should have thought it proper on any principle satisfactory to themselves to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers whose governments differ from theirs are interested, even those most remote, and surely none more so than the United States.

Our policy in regard to Europe, which was adopted at an early stage of the wars, which have so long agitated that quarter of the globe, nevertheless remains the same, which is not to interfere in the internal concerns of any of its powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy, meeting, in all instances, the just claims of every power, submitting to injuries from none. But in regard to these continents, circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness, nor can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally, impossible, therefore that we should behold such interposition, in any form, with indifference. If we look to the comparative strength and resources of Spain and those new governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other powers will pursue the same course.

9.—*Mr. Rush to Mr. Middleton.*

[Extract.]

LONDON, *January* 9, 1824.

I have heretofore written to you on the 6th and 22d of December, and have now to inform you that from interviews which I have had with Mr. Canning, since the present month set in, I find that he will decline sending instructions to Sir Charles Bagot to proceed jointly with our government and that of Russia, in the negotiation relative to the northwest coast of America; but that he will be merely informed that it is now the intention of Great Britain to proceed separately.

Mr. Canning intimated to me that to proceed separately was the original intention of this government, to which effect Sir Charles Bagot had been instructed and never to any other, and that Sir Charles had only paused under your suggestions to him of its being the desire of our government that the three powers should move in concert at St. Petersburg upon this subject.

The resumption of its original course by this government has arisen chiefly from the principle which our government has adopted, of not considering the American continents as subjects for future colonization by any of the European powers, a principle to which Great Britain does not accede.

I have informed the Secretary of State of the above intention of this government. It will produce no alteration in my endeavors to obtain in negotiation here a settlement of the points as between the United States and Great Britain, respecting the northwest coast, in manner as my instructions lay them down to me.

10.—*Mr. Rush to Mr. John Quincy Adams.*

[Extract.]

LONDON, *August* 12, 1824.

SIR: * * * It is proper now, as on the question of the St. Lawrence, that I should give you faithful information of the manner in which the British plenipotentiaries received my proposal, and the principles under which I had introduced it. I may set out by saying, in a word, that they totally declined the one and totally denied the other. They said that Great Britain considered the whole of the unoccupied parts of America as being open to her future settlements in like manner as heretofore. They included within these parts as well that portion of the northwest coast lying between the forty-second and the fifty-first degrees of latitude as any other parts. The principle of colonization on that coast, or elsewhere on any portion of those continents not yet occupied, Great Britain was not prepared to relinquish. Neither was she prepared to accede to the exclusive claim of the United States. She had not, by her convention with Spain in 1790, or at any other period, conceded to that power any exclusive rights on that coast where actual settlements had not been formed. She considered the same principles applicable to it now as then. She could not concede to the United States, who held the Spanish title, claims which she had felt herself obliged to resist when advanced by Spain, and on her resistance to which the credit of Great Britain had been thought to depend.

* * * * * * *

I have, &c.,

RICHARD RUSH.

11.—*Treaty of amity, commerce, and navgiation between Great Britain and Mexico. Signed at London, December* 26, 1826.

[Extract.]

XIV. The subjects of his Britannic Majesty shall, on no account or pretext whatsoever, be disturbed or molested in the peaceable possession and exercise of whatever rights, privileges, and immunities they have at any time enjoyed within the limits prescribed and laid down in a convention signed between his said majesty and the King of Spain on the 14th of July, 1786; whether such rights, privileges, and immunities shall be derived from the stipulations of the said convention or from any other concession which may at any time have been made by the King of Spain or his predecessors to British subjects and settlers residing and following their lawful occupations within the limits aforesaid, the two contracting parties reserving, however, for some more fitting opportunity, the further arrangements on this article.

12.—*Treaty between the United States and New Granada of December* 12, 1846.

[Extract.]

ARTICLE XXXV.

The United States of America and the Republic of New Granada, desiring to make as durable as possible the relations which are to be established between the two parties by virtue of this treaty, have declared solemnly and do agree to the following points:

1st. For the better understanding of the preceding articles, it is and has been stipulated between the high contracting parties that the citizens, vessels, and merchandise of the United States shall enjoy in the ports of New Granada, including those of the part of the Granadian territory generally denominated *Isthmus of Panama*, from its southernmost extremity until the boundary of Costa Rica, all the exemptions, privileges, and immunities concerning commerce and navigation which are now or may hereafter be enjoyed by Granadian citizens, their vessels and merchandise; and that this equality of favors shall be made to extend to the passengers, correspondence, and merchandise of the United States in their transit across the said territory from one sea to the other. The government of New Granada guarantees to the government of the United States that the right of way or transit across the *Isthmus of Panama*, upon any modes of communication that now exist or that may be hereafter constructed, shall be open and free to the government and citizens of the United States, and for the transportation of any articles of produce, manufactures, or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the government of New Granada, or by the authority of the same, than is, under like circumstances, levied upon and collected from the Granadian citizens; that any lawful produce, manufactures, or merchandise belonging to citizens of the United States thus passing from one sea to the other, in either direction, for the pur-

pose of exportation to any other foreign country, shall not be liable to any import duties whatever; or, having paid such duties, they shall be entitled to drawback upon their exportation; nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the said isthmus. And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages, and for the favors they have acquired by the 4th, 5th, and 6th articles of this treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

13.—*Convention between the United States and Nicaragua, June* 21, 1849 (*concluded but not submitted to the Senate in consequence of the subsequent conclusion of the Clayton-Bulwer Treaty*).

The United States of America and the State of Nicaragua, having in view the grand design of opening and establishing through the territories of the latter State a passage and communication between the Caribbean Sea and the Pacific Ocean to facilitate the commerce between the two oceans and to produce other great results, and designing to establish, regulate, and define the grants, rights, privileges, and immunities that shall appertain to each other with reference to such great object by means of a treaty and special convention. For the accomplishment of these desirable purposes the President of the United States of America has conferred full powers on Elijah Hise, chargé d'affaires of the government of said States in Central America, and the State of Nicaragua hath likewise granted full powers to Sr. Lic^{do} Don Bueneventura Selva, chargé d'affaires of the government of the said State of Nicaragua near the United States legation in Central America, who, after having exchanged their said full powers in due and proper form, have agreed and do agree upon the following articles:

ARTICLE I.

It is solemnly agreed between the two high contracting parties that the State of Nicaragua doth grant to and confer upon the United States of America, or to a company of the citizens thereof, the exclusive right and privilege to make, construct, and build within the territories of the said State of Nicaragua, through or by the use and means of any of the streams, rivers, bays, harbors, lakes, or lands under the jurisdiction or within the limits of the said State, a canal or canals, a road or roads, either railways or turnpikes or any other kind of roads, for the purpose of opening a convenient passage and communication, either by land alone, or water alone, or by both land and water, and by means, if deemed proper, of locks and dams, or by any other mode of overcoming and removing the obstructions to the navigation of the said rivers, lakes, harbors, &c., between the Caribbean Sea and the Pacific Ocean, for the transit and and passage of ships, steamers, sailing-vessels, boats, and vessels of all

kinds, as well as vehicles of every sort used for the transportation and conveyance of persons and property and of goods, wares, and merchandise of every description, and the United States or the company which may be formed by virtue of such charter as shall be made as herein provided shall be permitted for the construction of said works to procure, take, and obtain within the territories of Nicaragua all kinds of materials, such as stone, timber, earths, and whatever else may be necessary and proper for the said purposes, free of any charge so far as the said materials may be procured on the lands belonging to said State.

ARTICLE II.

The State of Nicaragua cedes and grants to the United States, or to a chartered company of the citizens thereof, as the case may be, absolutely, all the land that may be required for the location and construction of said canal or canals, road or roads, and which may be necessary for the erection of buildings and houses of every description for the residence and accommodation of the engineers, superintendents, and laborers, and all others employed in the making and construction of the said works, or in governing, managing and controlling the same, and also for the erection of all such necessary buildings as may be requisite and proper for the purpose of storing away therein all the tools, machines, materials, and property of every description which may be required for the use in the construction, repairing, preservation, and management of said works, and should any portion of the lands or materials, or of the rivers, bays, ports, or their coasts or lakes, and their shores, which may be necessary and proper to be applied for the location and construction of said works and its appurtenances, belong to individuals, the State of Nicaragua agrees and undertakes to extinguish the titles thereto, and to procure the same upon a just principle of valuation for the aforesaid public works. The aforesaid cession and grant shall include a space of not less than three hundred feet on each side of the lines of said works, and extending all along the whole length thereof, so that ample space be secured on the margins of said works for the convenient use thereof. The just value of such of said lands and materials as may be private property at the date of this treaty will be paid for by said company.

ARTICLE III.

It is agreed that if the Government of the United States shall decide not to undertake and construct the said works, then either the President or Congress thereof shall have the power and authority to frame, enact, and issue a charter or act of incorporation containing such liberal provisions, and such grants of rights and privileges, not inconsistent with the rights of the contracting parties herein secured, as may be necessary, convenient and proper to effect the great objects in view, which charter and act of incorporation shall provide as follows:

1st. That the company which may be formed and organized under and by virtue of its provisions shall be composed exclusively of the citizens of one or both of the contracting parties, who may subscribe for and become the owners of the *whole* of the capital stock required for the said works. If, however, such citizens (thus having the preference) shall fail in due time to subscribe for and become the owners of the whole amount of the said capital stock, the residue thereof not taken by them may be taken, paid in, and owned by the governments of both or either of the contracting parties, or by the governments or citizens of any other nation, kingdom, or country.

2d. That said company shall have the sole and exclusive right and privilege of constructing and owning such works as are herein named within the State of Nicaragua, provided the same are commenced and prosecuted within the time limited in this convention.

3d. It shall authorize the said company to build and construct said canal or canals, in such directions and of such width and depth as they shall in their discretion determine, and if the plan of roads is in part or in whole adopted the route, width, kind, and number thereof shall be determined upon by the said company as they may think proper.

4th. It shall provide that said company may make contracts, sue, and be sued as a corporation, with a given name and style, have a corporate seal, and engage in all such trade and business as may be proper and convenient in promoting all the operations required for the attainment of the ends in view.

5th. It shall contain provisions adequate for the organization of said company; it shall provide for the appointment of the officers, agents, engineers, surveyors, superintendents, and other employés of said company; and that said company may make and adopt all its own by-laws and regulations, so that the same be not in conflict with the provisions of this convention.

6th. It shall provide that said company may not only build and construct, but also enlarge, alter, repair, and reconstruct the said works as they may think proper, and that they may manage and govern the same and manage and control the financial affairs of the corporation.

7th. It shall provide that the said company shall make annual reports to the executive governments of the United States and the State of Nicaragua, setting forth their receipts and expenditures, and the condition, operations, and affairs of the said company.

8th. It shall provide that the management of the affairs of said company shall be vested and lodged in nine managers, five of whom shall be appointed by the company for a period of time, and in a manner to be regulated by the said charter, and in like manner two of the said managers shall be appointed by the President of the United States and two by the Executive Chief of the State of Nicaragua, and the said nine managers shall appoint their own president.

9th. It shall provide that the governments of either of the contracting parties may, through their committees, freely examine and investigate the affairs, business operations, and condition, financial and otherwise, of the said company, and for such purpose such committees may examine the books and papers of the company, and examine the officers thereof and other witnesses on oath, and make reports thereon to their respective governments.

10th. It shall provide that said company shall have the sole and exclusive right and privilege of conveying persons and passengers, and of conveying all steamers, ships, and vessels of all kinds, by towage or otherwise, and of transporting in the vessels of others or of their own all property, goods, wares, and merchandise, over, through, and upon said navigable waters, canal or canals, road or roads, which shall be improved, made, or constructed by them, at such rates, charges, duties, and tolls as the said company may think proper to establish; except, however, that the said charter shall further provide that all the vessels of war and all other public vessels of every description belonging to the governments of the two contracting parties, as well also as all other vessels which may be engaged in the permanent or temporary employment of the said governments to transport their troops, munitions of war, their public property of all kinds, and to convey their public agents, consuls,

ministers, and all their officers, civil and military, shall be permitted to have the free and unrestricted use of the said canal or canals and navigable waters, and shall if necessary and required be conveyed through the same by the said company free of all costs and charge; said charter shall further provide also that the public mails of the contracting parties shall be conveyed and transported along and over the said works by the said company, in their own vessels or vehicles, free of cost or charge, and the contracting parties agree and stipulate with all solemnity that the aforesaid rights and privileges shall be enjoyed by each other perpetually, and that said charter shall provide accordingly; said charter shall also further provide that the citizens of the two parties shall enjoy and possess the right and privilege with their vessels, goods, merchandise, and property, and persons to pass and be conveyed through, upon, and over the said canals, roads, and navigable waters on terms at least as favorable as the subjects or citizens of any other nation or country.

11th. Said charter shall provide that the said works shall be commenced by said company within ten years after it shall be fully organized under said charter, or otherwise forfeit their privileges; so likewise if they shall after said works are begun declare their intention to abandon them and cease to prosecute the same for four entire successive years intentionally.

ARTICLE IV.

The charter aforesaid may contain such other provisions and grants of rights and privileges not in violation of or in conflict with any of the preceding or subsequent articles of this treaty as may be deemed necessary, convenient, or proper for the objects in view by either the President or Congress of the United States, and the same when framed and issued shall be approved and legalized by the Government of the State of Nicaragua, and no privileges or emoluments shall be granted in said charter to either of the contracting parties which shall not likewise be held and enjoyed to the same extent by the other.

ARTICLE V.

The Government of the United States shall have the right to erect such forts and fortifications at the ends and along the lines of said works, and to arm and occupy the same in such manner and with as many troops as may be deemed necessary by the said government for the protection and defense thereof, and also for the preservation of the peace and neutrality of the territories of Nicaragua, to whom pertains equal rights as inherent to her sovereignty.

ARTICLE VI.

The public armed vessels, letters of marque, and privateers, and the private merchant and trading vessels belonging either to the governments, or the subjects, or citizens of nations, kingdoms, or countries with which either of the contracting parties may be at war, shall not, during the continuance of such war, be suffered or allowed to come in the ports at the terminations of said canals nor be allowed to pass on or through the same, on any account whatever; neither shall the vessels of neutral nations, whether public or private, be allowed to convey by means of said canal articles contraband of war, to or for the enemies of either of the contracting parties, or to or for other nations or states who may be

at war with each other; nor shall the vessels of countries which are engaged in war with each other, owned or employed and armed by them to carry on such war, during the continuance be allowed to pass through the said canals. The public and private vessels of all nations, kingdoms, and countries which are in peace with both the contracting parties and with each other shall be permitted to enter said ports, and to pass or be conveyed through the said canals, but they shall be subject, however, to the payment of such duties, charges, and tolls as may be established by the proprietors of the said works.

ARTICLE VII.

The State of Nicaragua may, of course, exercise her right of erecting and establishing anywhere on the routes or margins, or at the points of termination of said works, custom-houses and warehouses, and to collect duties, according to her own laws, upon the goods, wares, and merchandise imported for sale or consumption into her territories by means of said works, and the State of Nicaragua may adopt and enforce all needful rules and regulations to prevent smuggling or the introduction of contraband goods in her territories; but it is expressly agreed that the State of Nicaragua shall not impose, enforce, or collect any taxes, charges, or duties of any kind or amount on the persons (for passports), or property, or on goods, wares, or merchandise of any class or kind on their travel or transit over, or for passing through her territories by means of said canals, roads, &c., provided the said property, goods, wares, and merchandise shall be not sold or not introduced for sale or consumption into the said State, but be exported to other states or countries.

ARTICLE VIII.

The ports at the points of termination of said works shall be free to both the contracting parties and their citizens, respectively; and their public and private vessels of all kinds shall enter and remain therein and depart therefrom and not be subjected to the payment of any port charges, tonnage duties, or other imposition whatever.

ARTICLE IX.

The persons employed in the location and construction of said works, the owners thereof, and all their agents, and officers, and employés of every sort, shall be under the special protection of the governments of both the contracting parties, and they shall not be subject to any kind of taxation on their persons or property, nor shall they be required to pay any contributions or to perform any civil or military duty or service whatever for either of the two governments during their employment about the said works; and all provisions, including wines and liquors, and all merchandise imported into Nicaragua for their clothing and subsistence shall be free and exempt from all duties and taxes, direct or indirect; and all such articles, property, stores, tools, implements, and machines, &c., &c., as may be required for surveys and explorations, and for locating and constructing said works, shall be imported into the State of Nicaragua free from all taxes and duties whatever thereon, and the vessels employed in the importation of the said subsistence, clothing, tools, implements, &c., &c., shall also be free and exempt from all port charges and tonnage duties in all the ports, rivers, lakes, or harbors on the coasts or within the limits of the State of Nicaragua; and entire

liberty is to be enjoyed by the said company to make full and complete surveys and explorations of the ports, bays, seas, lakes, rivers, and territories of Nicaragua, in order to the location of said works and for the procurement of lands and materials necessary for the same, in which explorations and surveys Nicaragua, at her own expense, may participate, if she thinks proper.

ARTICLE X.

The State of Nicaragua grants and cedes to the United States or to a company to be chartered as herein provided, as the case may be, all the land within two leagues square belonging to the said State, and which may be unappropriated at the date of this treaty, at each point of the terminations of said works at the seas on each side, that is to say, three miles square on each side of both ends of said works, to serve for the sites of two free cities which it is anticipated will hereafter be established at said points, the inhabitants of which free cities shall enjoy the following rights and immunities:

1st. They shall govern themselves by means of their own municipal government, to be administered by officers, legislative, executive, and judicial, chosen and elected by themselves according to their own regulations.

2d. They shall have the right of trial by jury in their own city courts.

3d. They shall have the most perfect freedom of religious belief and of religious worship, public and private.

4th. They shall not be required to pay any tax upon their real estate or other property except such as may be imposed by the municipality and collected for the city treasury, and to be used and applied for the benefit of said cities.

5th. They shall not be required to perform any military services, except for the defense of the said cities in which they may reside.

6th. The said cities will of course be under the qualified dominion and government of the State of Nicaragua, not to be exercised in any manner, however, in violation of their rights and immunities as herein specified; and said free cities shall be under the protection of the governments of both the contracting parties.

ARTICLE XI.

The State of Nicaragua agrees that the United States shall have, possess, and enjoy forever the following rights and privileges; that is to say, the right and privilege to pass, convey, transport, and send through all or any part of the territories and dominions of the State of Nicaragua, on land or water, from ocean to ocean, by means of her ports, bays, rivers, lakes, and roads, troops, infantry or cavalry, all kinds of arms, artillery, and munitions of war of all kinds, her public property of every description, public officers, civil and military, consuls, ministers, dispatch agents, her public mail and mail agents, and all other employés of the Government of the United States of America; and the same shall all and each be permitted to pass, be sent, and be conveyed through said state, in any manner, as aforesaid, in the public armed vessels of the United States, and in all such other vessels or vehicles, public or private, which may be in the temporary or permanent employment of the Government of the United States for any of the purposes aforesaid, or in any other way, free from all cost and exempt from all taxes, duties, imposts, charges, or exactions of any kind whatever, either on the persons, property, vehicles, or vessels aforesaid; and all the

aforesaid privileges and the said free rights of way and of transit shall be held, used, and enjoyed by the United States of America (but not by any other nation, state, or government, except Nicaragua) without cost or charge, and freely, whether the same be made through the dominions and territories of Nicaragua as they now exist, or whether the said troops, munitions of war, public officers, agents, employés, mails, public property, vehicles, and vessels, &c., shall be sent, transported, or conveyed by means of improved navigable rivers, canals, or turnpikes, or railroads, or any other public improvements which may be hereafter made in the State of Nicaragua, either by the governments or citizens of the contracting parties, or by the governments, citizens, or people of any other nation, kingdom, or country; and the citizens of the United States shall have and enjoy all the rights and privileges of travel, passage, transit, and conveyance for themselves and their property and vessels of all kinds through the territories and dominions of the State of Nicaragua as they now exist or through such canals or roads, railways or turnpikes, or other improvements as may be hereafter made in said state, upon terms and conditions in every particular as favorable as those enjoyed by the citizens of Nicaragua, or by the citizens of any other nation, kingdom, or country.

ARTICLE XII.

In consideration of the premises as set forth in the foregoing eleven articles, the United States of America doth solemnly agree and undertake to protect and defend the State of Nicaragua in the possession and exercise of the sovereignty and dominion of all the country, coasts, ports, lakes, rivers, and territories that may be rightfully under the jurisdiction and within the just and true limits and boundaries of the said state; and when the circumstances and condition of the country may require it the United States shall employ their naval and military force to preserve the peace and maintain the neutrality of the said coasts, ports, lakes, rivers, and territories, and to hold and keep the same under the dominion and sovereignty of the Government of the State of Nicaragua or of the government of such state or political community of which Nicaragua may voluntarily become a member, or with which, of her own accord, she may hereafter be identified: Provided, however, that the said sovereignty and dominion of the State of Nicaragua, so guaranteed as above, shall not be held, maintained, or exercised by said state in any such manner as to conflict or to be inconsistent with the rights and privileges herein secured to the United States and her citizens; and to prevent all misunderstanding, it is expressly stipulated that the United States are not bound, nor do they undertake, to aid, assist, or support Nicaragua in offensive wars or wars of aggression waged and carried on by said state with foreign powers or with the neighboring states, outside of her just limits, and beyond the territories rightfully within her jurisdiction; but the contracting parties agree and undertake that, if necessary, the naval and military forces and the entire means and resources of both the contracting parties shall be employed to put down all wars and bloodshed arising therefrom, and to suppress all violations of the peace and interruptions of the neutrality of the said State of Nicaragua; and for further explanation it is understood that if the State of Nicaragua should become involved in a war with any foreign power or neighboring state within her own borders, to defend the territories rightfully belonging to her, or to recover such territories wrongfully wrested from her, the United States engages to defend Nicaragua in carrying on such war within her own rightful limits, provided, how

ever, that such war is just, and provided, moreover, that if peace is prevailing in the State of Nicaragua, no wars or hostilities shall be first commenced in said state by either of the contracting parties without previous friendly consultations, and unless with the consent of both their governments, given according to their laws and constitutions, respectively.

ARTICLE XIII.

The contracting parties, in negotiating this treaty, have had in view the contract entered into between the State of Nicaragua, through their commissioner, José Trinidad Muños, and a certain company styled "Compania de transito de Nicaragua," composed of certain persons named Willard Parker, Simeon H. Ackerman, Asher Kurshecdt, and David J. Brown, through the said David J. Brown as their agent, which contract was executed and signed by said commissioner and agent on March 14, 1849, and ratified by the legislative power of the State of Nicaragua on March 16, 1849, and approved by the executive power of said state on the 17th of March, 1849. Now, in view of this contract, it is further agreed as follows:

1st. If the above-named company shall accede to this treaty *in all its parts*, or if they shall voluntarily abandon their contract, or if they shall forfeit their rights under said contract by failing to perform and execute the terms and conditions thereof in due time, then this treaty shall remain and be valid in all its parts.

2d. But if the said company shall not accede to this treaty *in all its parts*, and if they shall not abandon or forfeit their said contract, but if they shall execute the same and comply with its terms, and build the said works all in the time required, then, in such case, this treaty in all its parts, wherein the State of Nicaragua grants to the United States, or to a company to be chartered by the President or Congress thereof, the exclusive privilege to be the constructors and owners of said works, shall be void, and of no force or effect.

3d. Nevertheless, in such case as is set forth in the second section next preceding, if said company shall accede to the fifth (5th), the sixth (6th), the eighth (8th), and the eleventh (11th) articles of this treaty, and shall consent and agree that the United States of America, and the citizens thereof, shall have and enjoy all the rights and privileges therein granted to them, and as defined also in the tenth (10th) section of the third (3rd) article, then in such case the above-named fifth (5th), sixth (6th), eighth (8th), and eleventh (11th) articles of this treaty, as also the twelfth (12th) article thereof, shall be valid and obligatory between the contracting parties.

4th. But if in such case existing as is set forth in the second section above the said company shall refuse to accede or agree to the said fifth (5th), sixth (6th), eighth (8th), and eleventh (11th) articles hereof, as specified in the preceding third section, then this treaty shall be altogether void and of no force or effect whatever.

But the contracting parties, anticipating that said company, being satisfied that the great enterprise in view cannot succeed unless under the protection and patronage of the two governments, will concur and co-operate with them in the promotion thereof, they are assured that this treaty will meet their cordial approbation, and that it will be fully acceded to by them.

The present special convention between the United States of America and the State of Nicaragua shall be approved and ratified by the President of the United States of America, by and with the advice and con-

sent of the Senate thereof, and by the Director of the State of Nicaragua, with the consent of the Legislative Chambers thereof, and the ratifications shall be exchanged in the city of Washington, Santiago de Managua or Leon, within the term of two years counting from this date.

In faith whereof, we, the plenipotentiaries of the United States of America and of the State of Nicaraugua, have signed and sealed these presents in the city of Guatemala, on the twenty-first day of June, in the year of our Lord, one thousand eight hundred and forty-nine, in the seventy-third year of the independence of the United States of America, and in the twenty-eighth year of the independence of the State of Nicaragua.

[SEAL.] ELIJAH HISE.
[SEAL.] BUENAVA SELVA.

14.—*Contract between Nicaragua and the American Atlantic and Pacific Ship-Canal Company, signed at Leon, August* 27, 1849, *containing the grant which was subsequently accepted under Article VII of the Clayton-Bulwer Treaty.*

The Supreme Director of the State of Nicaragua, and "The American Atlantic and Pacific Ship-Canal Company," composed of Cornelius Vanderbilt, Joseph L. White, Nathaniel H. Wolfe, and their associates, being always citizens of The United States, desiring to settle the terms of a contract for facilitating the transit across the Isthmus of Nicaragua from the Atlantic to the Pacific Oceans, by means of a ship-canal or railroad, have appointed as Commissioners on the part of the Supreme Director of the State of Nicaragua, Messrs. Hermenegilda Zepeda and Gregorio Juares, and on the part of the said company Mr. David L. White, with full powers to arrange and conclude a contract for the above-named purposes; which Commissioners having exchanged their respective powers, have agreed upon and concluded the following Articles:

ART. I. The State of Nicaragua grants to the said Company the exclusive right and privilege of constructing a ship-canal across its territory, by a single route, and at its own expense, from the port of St. John's of Nicaragua, or any other more feasible point on the Atlantic, to the port of Realejo, Gulf of Amapala, or Fonseca, Tamorinda, St. John's of the South, or any other point on the Pacific Ocean which the engineers of the Company may decide upon, by means of the St. John's river, Lake Nicaragua, River Tipitapa, Lake of Leon, or any other rivers, lakes, waters, and lands situated within its territory, with the object of connecting the two oceans, and to make use of, for its construction and navigation, said rivers, lakes, waters, and lands, both public and private. And the State also grants to the Company the exclusive right to the administration, management, and control of the said canal, according to the following Articles:

II. The dimensions of the canal shall be such as may be necessary for the passage of vessels of all sizes, and the point at which it shall terminate on the Pacific, in the event that the engineers of the Company shall decide upon two or more points as equally practicable, shall be that one most consistent with the mutual interests both of the State and the Company.

III. The Company binds itself to construct, at its own expense, in the harbors at the extremities of the route of said canal, custom-house buildings of the necessary capacity for the use of the State and Company.

IV. The exclusive rights and privileges herein granted to the said Company by the said State, shall be enjoyed by the same for the fixed period of 85 years, counted from the day in which the canal shall be completed and put in use.

V. The Company hereby agrees to pay to the said State for the said grant the following sums of money, namely:

First. Ten thousand dollars by draft on the said Company in the city of New York, as soon as this contract shall be ratified by the Legislature of the State.

Second. Ten thousand dollars at the expiration of one year from this same date; and 10,000 dollars each year thereafter until the completion of the said canal; the above sums to be paid to the State in the city of Leon, or in the city of New York, as the State may elect. Also the said Company makes a free donation to the said State of 200,000 dollars of stock in the enterprise, which shall be delivered to the State as soon as the certificates of stock shall be distributed by the Company.

VI. Said State shall receive for its proportion of the income of said canal, after the same shall be put in use, the following interests, namely: for the first 20 years, 20 per cent. annually out of the net profits, after deducting therefrom the interest of the capital employed in its construction at the rate of 7 per cent. per annum, and 25 per cent. each year thereafter out of said net profits, after deducting the said 7 per cent., until the expiration of the full period of the term hereinabove granted. And the State shall also receive 10 per cent. out of the net profits, without any deduction of interest, of any route which the Company may establish between the two oceans, whether it be by railroad, or carriage-road, or by any other means of communication, during the 12 years herein granted for the construction of said canal.

VII. The said Company shall be bound to make and present an annual report and account to the Government of Nicaragua, setting forth the receipts and expenditures, as well as a statement of the condition of the works of the canal; which report shall be certified by the proper officers of the Company. The State, however, shall have the right, through any Commissioners which it may appoint for that purpose, to inspect and examine at any time the books of the Company, to satisfy itself of the correctness of the said receipts and expenditures.

VIII. It is hereby stipulated that the State of Nicaragua shall have the privilege of taking stock in the said canal, to the amount of 500,000 dollars, within 1 year from the date of the ratification of this contract, which it may distribute, as it may deem proper, among any of its native citizens, or the citizens of the adjoining States, upon giving notice to the Company of such intention through The United States' Consul in the city of Leon.

IX. It is further stipulated that a majority of the stock of said canal shall always be owned by citizens of The United States; in evidence of which the stock-books of said Company shall always be open to inspection at the principal office of the Company, wherever the same may be located.

X. The Company binds itself to commence the preliminary surveys for said works within the period of 12 months from the date of the ratification of this contract, and also to complete the said canal within 12 years from the same date. But if any fortuitous or unforeseen events, beyond the control of the Company,—as for example, earthquakes, epidemics, wars, or any other events of this nature,—should appear during the progress of the work to suspend its execution, the time thus lost

shall not be reckoned as a part of the stipulated time above given for its completion. In case such event should occur, the Company shall give immediate notice to the Government of the same, for the purpose of deciding, in connection with the Company, upon the nature of such event.

XI. If none of the events which are expressed in the preceding Article should occur, and the work shall not be completed within the said period of 12 years, then, whatever may have been done by the Company to that time in the prosecution of the work, shall be forfeited to, and become the property of, the State without any indemnity.

XII. The State gives to the said Company the right to take, free of any charge or indemnity, any of the public lands or forests within the State, all the wood, stone, lime, timber, or any other materials which it may require for the construction and use of said canal and its dependencies. And the said State hereby further gives to the Company the right to take and make use of such portions of the public lands as it may require for the establishment or erection of houses, stores, docks, wharfs, stations, and all other useful objects connected with the works of said canal.

XIII. In case the Company shall require any materials, such as wood, lime, stone, &c., which may be found in or upon the lands of particular individuals, it shall be obligated to pay for the same at such price as may be agreed upon between the Company and such individuals. But all the lands which may be required for the passage of the canal in its entire route, shall be at the expense of the State, and the Company shall not be liable to pay any indemnity for the same.

XIV. All the articles that the Company may require, both for the surveys and explorations, and for the construction and use of the works of the canal, such as machines, instruments, tools, &c., and all other necessary materials, shall be admitted into the State free of duties of all kinds, and may be discharged in any of its harbours, or at any other point within its territory that the Company may select; in this last case, however, giving notice of such intention to the proper Government officer. But the Company shall have no right to introduce within the territory of the State any goods, merchandize, or any other articles of commerce for sale or exchange without paying the duties established by law. And they are also prohibited from importing any articles or materials, which may be monopolised or prohibited by the State, for any purpose, except for the use of the works of the canal.

XV. The State binds itself to facilitate and aid in every possible way the engineers, contractors, employés, and labourers who may be employed in the explorations and surveys of the route, and in the construction of the works of the canal; and to this end stipulates that all citizens of the country who may be so employed by the Company, shall be free and exempt from all civil or military service of the State whatsoever; but to entitle them, however, to the right of exemption from such military service, they shall have been previously in the employ of the Company, for at least the period of 1 month. The State also guarantees to all foreigners who may be employed on the works of the canal the same rights, liberties, and privileges as are enjoyed by inhabitants of the country; and also that they shall not be molested or disturbed in their labours while thus employed, by any internal commotions or disorders of the country; and at the same time that they shall be free and exempt from all taxes, duties, or direct contributions whatsoever during the time they may be in the Company's employ.

XVI. The said Company agrees to receive from the State as labourers upon the works of the canal any convicts who may be capable of labour,

upon such terms as may be agreed upon between the Company and the State.

XVII. The said Company agrees to transport across the said canal all passengers, goods, merchandize, and materials of every description which may be intrusted to it; and also stipulates that the canal shall be open to the transit of vessels of all nations, subject to fixed and uniform rates of tolls that may be established by the Company.

XVIII. The Company shall establish a tariff of fees or tolls for the transportation of all passengers, goods, wares, merchandize, and property of every description, and for vessels of all kinds passing through or along the said canal, which shall have the force of law from the moment in which it shall be communicated to the Government of Nicaragua, which shall be obliged to sanction the same within 8 days after its reception; and at the same time, with a view to induce the largest and most extended business by this route, the said Company agree to fix the said tariff of fees or tolls for the same, at the lowest possible rate consistent with the mutual interests, both of the State and the Company; and in case that the Company should determine at any time to alter such tariff, it shall be incumbent upon it to give 6 months' previous notice of such determination in the State paper of Nicaragua and in the principal seaport towns of The United States.

XIX. The rate of tolls and charges for the transit of the products and manufactures of the State of Nicaragua and the adjoining States shall be regulated by a particular and more favourable tariff, which shall be agreed upon between the State and the Company.

XX. The State grants to all steamers and vessels of the Company during the continuance of this contract, the right of ingress and egress to, from, and through all its harbours, rivers, and waters both on the Pacific and Atlantic Oceans, and the interior, and the use of the same free of all duties or charges of any kind whatsoever, as, for example, anchorage, tonnage, &c.

XXI. The State hereby stipulates that all vessels and steamers of the Company, and also all goods, merchandize, manufactured articles, or any other property which may be conveyed therein passing through the said canal from one sea to the other in either direction to any foreign country, shall be free and exempt from all kinds of Government duties or taxes whatsoever, and shall also be secure and protected from all interruption or detention in their course on the part of the State.

XXII. The Company shall furnish to the State annually a list of all its vessels employed in the navigation of the route, containing the names and descriptions of each of such vessels, which shall be registered in the archives of the State, and thereupon the State shall give to the Company a separate certificate of the register of each one of the said vessels, signed by the proper officer of the Government, which certificate shall serve always as a passport for said vessels through all the harbors of the State, upon presenting the same to the custom-house or harbour officer.

XXIII. The exclusive right which the Company has acquired by this contract of navigating the said lakes, rivers, and waters of the said State by means of steam vessels, from one sea to the other, is understood as not to exclude the natives of the country from free interior navigation by means of sailing, or any other vessels, excepting steam-vessels.

XXIV. The Company binds itself to transport by the said canal, on board of any of its vessels, all the principal officers of the Government and its subalterns, in case of Government necessity, from one point of

said route to any other one at which said vessels may stop, without any charge to the State therefor.

XXV. The Company is to convey by any of its steamers or vessels, free of cost or charge over the route of the said canal, all the official correspondence of the State, in consideration of which the State agrees not to collect or recover any postage or duties of any kind upon any of the correspondence of the said Company.

XXVI. The Company binds itself to construct, at its own expense, bridges upon that part of the canal that may be made between the lakes and the Pacific, upon such principal highways as may be agreed upon between the State and the Company. The said State, with the consent of the Company, shall establish rates of toll or charges upon such persons or things as may pass over said bridges, the profits from which shall be appropriated to redeem the capital invested in their construction, and the interest thereon, at the rate of 7 per cent. per annum; and when such capital and interest shall have been reimbursed to the Company, then the profits shall be divided epually between the State and the Company for the remaining period of this contract, but such bridges shall continue under the control and management of said Company.

XXVII. The State of Nicaragua, with the object of facilitating the colonization of the lands contiguous to the River St. John, and the adjacent rivers, and of the canal which in or along it may be constructed, makes a free donation to the Company of 8 stations or sections of land to be located at such points upon either one or both of the banks of the said river or canal as the Company may elect, each one of which stations shall be of 6 English miles in length, fronting upon the river or canal, and 6 miles in width, measured from the bank of the canal or river towards the interior. And the State further grants to the Company the right of alienating the lands which compose said sections to settlers, or any other person or persons who may wish to locate themselves upon the same. Said sections of land are granted upon the following conditions:

1. They shall be located by the Company in such a manner that they shall be at least 3 English miles distant from each other.

2. That no one of them shall be located within the distance of $4\frac{1}{2}$ English miles from the mouth of the St. John's river.

3. The State reserves to itself the right to such points as shall be necessary for its military fortifications and public buildings.

4. That the lands granted shall not be alienated to settlers until 6 months after the commencement of the survey of the route of the said canal.

5. The State reserves to itself the supreme dominion and sovereignty over said lands and their inhabitants.

6. That said lands shall not be alienated by the Company to any Government whatsoever.

XXVIII. The colonies which the Company may establish upon said lands shall be colonies of Nicaragua, and thereupon the settlers shall be subject to the laws of the State the same as the natives of the country, being, however, exempt for the term of 10 years from all taxes and direct contributions, and from all public service, as soon as each colony shall contain at least 50 settlers.

XXIX. The State further agrees that in case any event may hereafter occur, as named in the preceding Article X, to suspend or prevent the construction of the canal, or if the said contract shall become forfeited, or annulled by either or both of the parties, and also in case the said

contract shall continue in force for the full period of 85 years, mentioned in the preceding Article IV, the said State shall always acknowledge as private property the lands which may have been alienated or ceded by the Company to settlers or other persons in virtue of the legal title which the Company has acquired by this contract to the said lands.

XXX. The Company shall have the exclusive right to construct rail or carriage roads, and bridges, and to establish steam-boats and steam-vessels on the said rivers and lakes as necessary accessories to and in furtherance of the execution of the canal; but the Company hereby stipulates and agrees that in case the construction and completion of the said canal or any part of it becomes impossible by any unforseen event or insurmountable obstacle of nature, to construct a railroad or rail and carriage road, and water communication between the two oceans, provided the same may be practicable, within the same period as is stipulated for the building of the said canal, and subject to the same terms, conditions, regulations, and restrictions, as far as they can be made applicable to the same.

XXXI. The State hereby binds itself not to sell or dispose of any of its public lands located upon or near the River St. John's, or upon or near any of the routes or points designated in Article 1 of this contract, until after the surveys shall have been made, and the route determined of the said canal.

XXXII. The State also binds itself to protect and defend the Company in the full enjoyment of the rights and privileges granted in this contract, and also binds itself not to contract with, or cede to, any Government, individual, or companies whatsoever the right of constructing a ship-canal, railroad, or any other communication across its territory between the two oceans, or the right of navigating by means of steam-vessels any of its rivers or lakes which may be occupied by this Company while this contract continues in force. But, should this contract become forfeited or annulled, then the State shall be privileged and free to contract with any other individuals or companies as it may deem proper.

XXXIII. In case any dispute or controversy shall arise, during the existence of this contract, between the State and the Company, the same shall be determined by a reference to 5 Commissioners, to be chosen in the following manner, viz., 2 to be named on the part of the State, 2 named by the Company, and the fifth to be selected by the 4 thus appointed, who shall hear and determine the matters in controversy, and decide upon the same; which decision of the said Commissioners shall be final and without appeal, and binding upon both the State and the Company.

XXXIV. It is further provided, that in the event of the 4 Commissioners thus chosen not being able to agree upon the selection of the fifth, the State and the Company shall then choose 3 individuals, out of which number they shall select one to act as such fifth Commissioner; but should they disagree in such selection, then the choice shall be made out of said number by lot.

XXXV. After the period of the 85 years herein granted to the Company shall have expired, the Company shall surrender to the State the canal or roads, and its dependencies, revenues, and privileges, free from all indemnity, for the capital which may have been invested in the said work. But it is nevertheless stipulated that the Company shall receive 15 per cent. annually out of the net profits of the canal for the period of 10 years after such surrender, provided the cost of the same shall be less than 20,000,000 of dollars; but should the cost be 20,000,000 of dol-

lars or more, then the Company shall receive said 15 per cent. for the period of 20 years after such surrender.

XXXVI. It is expressly stipulated on the part of the State of Nicaragua that the vessels, products, manufactures, and citizens of all nations shall be permitted to pass upon the proposed canal through the territory of the State, subject to no other or higher duties, charges, or taxes than shall be imposed upon those of The United States; provided always, that such nations shall first enter into such Treaty stipulations and guarantees respecting said canal as may hereafter be entered into between the State of Nicaragua and The United States.

XXXVII. It is finally stipulated that this contract, and the rights and privileges which it confers, shall be held inalienable by the individuals composing the Company herein named and their associates; and that it shall never, in whole or part, be transferred or assigned to any other Company, nor in any way become dependent upon or connected with any other Company, whatever may be the objects of the same.

XXXVIII. The present contract shall be ratified by the Legislature of the State in the shortest possible period; and on the part of David L. White shall be ratified immediately after, as agent of the Company which he represents, in virtue of the powers conferred on him to this effect.

In testimony of which we, the respective Commissioners, have signed and sealed the present contract in triplicate, in the city of Leon, in the State of Nicaragua, the 27th day of August, in the year of our Lord 1849.

(L.S.) HERMEND. ZEPEDA.
(L.S.) GREGORIO JUARES.
(L.S.) DAVID L. WHITE.

15.—*Mr. Crampton to Lord Palmerston.*

WASHINGTON, *September* 15, 1849. (Received October 3.)

MY LORD: Mr. Clayton having requested me to call upon him at the Department of State, said that he wished to converse with me frankly and confidentially upon the subject of the proposed passage across the isthmus, by way of Nicaragua and the River San Juan, with regard to which he had long felt a great deal of anxiety—an anxiety lately very much increased by intelligence he has received from Mr. Elijah Hise, who has arrived at Washington from Guatemala, where he has been for some years chargé d'affaires of the United States.

Mr. Hise has, it appears, upon his own responsibility, and without instructions either from the late or from the present administration, signed, on the part of the United States, a treaty with the state of Nicaragua, by which the latter grants to the United States an exclusive right of way across her territories, including therein the River San Juan, for the purpose of joining the two oceans by a canal across the isthmus. The treaty contains a number of provisions, such as stipulations for the construction of forts and military works upon the banks of the San Juan for the protection of the proposed passage. These Mr. Clayton enumerated to me; but he read to me, at length, the article which he regards as the most objectionable in the treaty, by which it is stipulated that the United States guarantees to Nicaragua forever the whole of her territory, and promises to become a party to every defensive war in

which that state may hereafter be engaged for the protection of that territory.

To the whole of this treaty, as well as to the "absurd stipulation" which he had just read, Mr. Clayton said that it was scarcely necessary to remark that he was entirely opposed. His views and wishes with respect to the construction of a canal across the isthmus by way of Nicaragua were, he observed, known to me, and had been, as I was aware, communicated by his direction to Her Majesty's Government; these would, he trusted have convinced your lordship that the Government of the United States have no views of exclusive advantage to themselves in this matter. He felt most anxious that the signature of the present treaty by Mr. Hise should not produce a contrary impression in any quarter; and with this view he proceeded to read to me a portion of the instructions which have been given to Mr. Squier, who has been lately sent as United States chargé d'affaires to Nicaragua. By these Mr. Squier is directed not only not to negotiate any treaty with that government on the subject of a passage across the isthmus, but not to give his support or countenance to any contract entered into by private citizens of the United States with Nicaragua on that subject, of an exclusive nature, or such as might bring the United States into collision with any other power.

The signature of the present treaty has, Mr. Clayton remarked, placed the Government of the United States in a most embarrassing situation. You know, he said, that the government have no majority in the Senate; you know that the treaty will be called for by Congress; the substance of it, indeed, has already found its way into the newspapers; you are aware of the opinion which, whether right or wrong, is generally entertained in this country of the claim of the Mosquito chief to any part of the territory claimed by Nicaragua; and you can form an idea of eagerness with which the party opposed to the government will avail themselves of the opportunity of either forcing us into collision with Great Britain on this subject, or of making it appear that we have abandoned, through pusillanimity, great and splendid advantages fairly secured to the country by treaty. It will require great caution on both sides, said Mr. Clayton, to prevent the two governments being brought into collision on account of this intrinsically worthless country.

Mr. Clayton concluded by saying that he would immediately send for Mr. Abbott Lawrence, who is now at Boston preparing for his departure for England on the 26th instant, and that he would put him into full possession of the views of the United States Government with regard to this subject. He begged me in the meantime to communicate the substance of what he had said to me to your lordship.

I have, &c.,

JOHN F. CRAMPTON.

Viscount PALMERSTON, G. C. B.

16.—*Mr. Crampton to Lord Palmerston.*

[Extract.]

WASHINGTON, *October* 1, 1849. (Received October 13.)

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Mr. Clayton, nevertheless, yesterday took an opportunity of entering upon the subject with me, with greater earnestness and at greater

length than on any previous occasion; and I am the more anxious to report accurately to your lordship the substance of his remarks, from the circumstance that the President, who happened to come into Mr. Clayton's room upon other business, on being informed of the subject on which we were engaged, waived all ceremony and joined in our conversation with great frankness, and every appearance of a wish to make proof of the most friendly feelings towards Her Majesty's Government, by evincing a disposition to deal with entire openness with regard to the affair in question.

The junction of the two oceans by a canal, Mr. Clayton observed, was an object so important to the whole of the commercial world, that it was matter for surprise that an attempt had not long since been made to effect it. The increase of population on the western coast of this continent had, however, now rendered it certain that such an attempt would ere long be made. The Government of the United States are strongly in favor of such an undertaking; but they are as earnestly opposed to its execution being made a subject for jealousy, by an attempt on the part of any one nation to monopolize to itself either the credit due to such an enterprise, or the advantages to be derived from it when effected. It should, in their view, be rather made a bond of peace and good understanding, by being brought about by a combined effort, and for the general benefit of mankind.

That great applause in certain quarters, and a certain sort of popularity, might be gained by the government of either of the countries by an attempt to effect this work upon a principle of exclusive advantage, Mr. Clayton observed, there could be no doubt. But the United States Executive disclaimed any such wish, but desired, on the other hand, not to be driven to adopt any measure for obtaining such exclusive advantage. Such popularity or applause would, in their opinion, be dearly bought by the jealousies and misunderstandings between nations which would be the inevitable result; and this it was the study of the United States Government to avert.

The two countries, Mr. Clayton continued, most deeply interested in this work are, there can be no doubt, Great Britain and the United States. Their interest in it, indeed, seemed to him to be identical. Their entire agreement with regard to it was therefore an object of paramount importance.

It was with this feeling, he said, that the United States Government would entirely disapprove of the treaty signed by Mr. Hise with the State of Nicaragua, unless they were driven to adopt it to counteract the exclusive claim of some other country. That treaty both secured exclusive advantage to the United States with regard to the proposed canal which they did not wish, under any circumstances, to possess, and threatened, besides, to bring them into collision with Her Majesty's Government upon the Mosquito question pending between them and the State of Nicaragua.

What the United States Government would now propose, therefore, was this: That the United States should abandon the treaty signed by Mr. Hise; and, instead of ratifying it, should propose, simultaneously with Her Majesty's Government, another treaty to Nicaragua, by which no exclusive advantage should be conferred on any party, and the great object of which should be to guarantee the safety of a company of capitalists, to whom a charter should be granted by Nicaragua on reasonable terms for the execution and maintenance of the work. This company Mr. Clayton would have formed upon no exclusive principle as regards the shareholders, while it should be regulated as regards the

rate of toll to be levied, and on such other points as might appear necessary, by the governments guaranteeing its safety and undisturbed possession. The Government of Nicaragua would of course have no power to levy any other dues than custom duties on articles imported for her own consumption; the transit from ocean to ocean being left free. The sole fact of the existence of such treaties between Great Britain and Nicaragua, and between Nicaragua and the United States, would, in Mr. Clayton's opinion, be quite sufficient to insure the undisturbed execution of the work; but he would propose that every other power which should conclude a similar treaty with Nicaragua, and offer a similar guarantee, should be admitted on equal terms to all the advantages of the canal. It would be by such an arrangement that the character which it ought to possess would be conferred on this great undertaking.

These considerations, if fairly laid before Her Majesty's Government, would, the United States Government are persuaded, induce Her Majesty's Government to consent to make such an arrangement with regard to the Mosquito claim as would prevent its being an obstacle to the design in question. The Mosquito claim, if disconnected with the question of a passage across the Isthmus, is not, the United States Government apprehends, one to which any great importance can be attached by Her Majesty's Government; and they cannot perceive that if the object which they think it probable that Her Majesty's Government, in common with themselves, have in view, of preventing an injurious monopoly being established by any one nation in the quarter in question, is obtained, there can be any real difficulty in arranging the question as far as the Mosquito nation is involved in it.

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Mr. Clayton then recurred to the embarrassing situation in which the friends of this great enterprise would be placed should Her Majesty's Government continue to oppose the Mosquito claim to the arrangement now proposed. The existence of the treaty signed by Mr. Hise, and the privileges conferred by it on it, by the United States, are, he said, no secrets in this country. The universal feeling would be for its adoption; and a reason for clamoring for its instant ratification would be, that this might defeat what would be represented and believed to be a plan on the part of Great Britain to secure for herself a monopoly of the most eligible passage between the two oceans. The Executive Government of the United States would be without excuse for withholding the treaty from the consideration of the Senate; and it is impossible to doubt, under the influence of the public excitement, which there is already an evident design to rouse with regard to this question, what would be the result. On the other hand, were the administration enabled to submit to Congress an arrangement such as is now proposed, and in which Her Majesty's Government would be in friendly concurrence with the United States Government for this great work, every pretext would be taken away from the most unreasonable, and every chance of future misunderstanding between the two governments avoided. Mr. Clayton considered that this question could never be settled amicably unless both Great Britain and the United States withdrew all claim to the territory of Nicaragua and Costa Rica. If either of the two governments held possession of the country on either side of the canal, it would hold an inadmissible advantage over the other; in a word, said he, let us both abandon all claim to what is called Nicaragua and Costa Rica, and lend the countenance of both governments to the construction of a ship-canal, if it be found to be practicable; if you refuse this offer, we are driven in self-defense to adopt the treaty.

In the whole of these observations General Taylor cordially concurred; the attempts, he remarked, which were making and would be made in many quarters to produce a misunderstanding or a collision between the two governments on this matter were, in his opinion, only to be met by perfect frankness and fair dealing; it was his earnest wish, therefore, that the matter should be laid in this spirit before your lordship, and he expressed an anxious wish that the question might be promptly arranged equally to the honor and advantage of both countries.

JOHN F. CRAMPTON.

Viscount PALMERSTON, *G. C. B.*

17.—*Mr. Crampton to Lord Palmerston.*

WASHINGTON, *November* 4, 1849.—(Received November 19.)

MY LORD: I had the honor of forwarding to your lordship, with my dispatch of the 15th ultimo, the copy of a contract between an American company and the Government of Nicaragua for the formation of an interoceanic canal by way of the River St. John and the Lakes of Nicaragua, which contract was drawn up under the supervision of Mr. Squier, in accordance with the provisions of the treaty which he was engaged in negotiating with the Nicaraguan Government; and I stated that Mr. Clayton, although he approved of the general tenor of the contract, thought that some of the articles were objectionable from being of an exclusive character, particularly those which require that all directors of the company and a majority of the shareholders shall be American citizens.

Mr. Clayton now informs me that he has had a conference with the two principal directors of the company in question; and that, as he anticipated, he finds that no objection will be raised on their part so to modify the provisions of the contract as to remove from it anything of an exclusive nature.

These gentlemen, Mr. Clayton remarked, far from wishing to adopt any regulations which might have the effect of deterring British capitalists from embarking in this great undertaking, are most anxious to secure their co-operation; for the American capitalists are sensible that without such co-operation there would be but small prospect of the ultimate success of the enterprise.

I have, &c.,

JOHN F. CRAMPTON.

Viscount PALMERSTON, G. C. B.

18.—*Mr. Abbott Lawrence to Lord Palmerston.*

UNITED STATES LEGATION,
November 8, 1849.—(Received November 8.)

MY DEAR LORD: As I told you in our conversation this morning, I have been instructed by the President to inquire whether the British Government intends to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast, so called, or any part of Central America. I have also been instructed to inquire whether the British Government will unite with the United States in guaranteeing the neutrality of a ship-canal,

railway, or other communication to be open to the world, and common to all nations. May I beg the favor of an answer to these inquiries, and to express the wish that I may receive it before two o'clock to-morrow, so as to send it out by this week's packet?

I am aware that Nicaragua is in dispute with Costa Rica, on the one hand, about her boundary, and with the Mosquitos, on the other, about their sovereignty. I have no purpose now to enter upon those questions; I only desire to know the views of Her Majesty's Government on the questions I have proposed. At the same time, I cannot but think that Great Britain and the United States can heal these breaches by kind offices; and that the Indians can be provided for in a manner satisfactory to Nicaragua and Great Britain, and far better for them than the equivocal position they now occupy.

I need not assure your lordship that the United States have no ulterior purposes in view. They frankly disclaim all intention of obtaining territory in Central America; and I have no doubt would be willing to mutually agree with Great Britain neither to settle, annex, colonize, or fortify that country.

I have, &c.,

ABBOTT LAWRENCE.

Viscount PALMERSTON, G. C. B.

19.—*Sir Henry Bulwer to Lord Palmerston.*

[Extract.]

WASHINGTON, *January* 6, 1850. (Received January 22.)

Since arriving in this country I have taken some pains to ascertain in what way the questions that have arisen between Her Majesty's Government and that of the United States, with respect to Nicaragua and the kingdom of Mosquito, might be brought to a prompt and satisfactory conclusion. Your lordship is aware that the main interest of the United States in this matter has arisen from its newly acquired possessions in the Pacific, and the project of an American company to form a water communication between the two oceans, passing through the Lake of Nicaragua and the river San Juan; this company having obtained from the state of Nicaragua the use of its lakes and territory for this purpose, and the use also of the river San Juan, to which Nicaragua lays claim.

In this manner the Government of the United States became interested in the pretension of the Nicaraguans, and desires to establish the fact that the river San Juan, ceded by the Nicaraguans to an American company for an object of the utmost interest to America, should be placed at the disposal of the state making that concession. This first interest in the claims of Nicaragua, therefore, proceeds from an interest in the construction of the canal to which I have been alluding.

But it so happens that, while it is very difficult, not to say impossible, for Her Majesty's Government to listen to those claims of Nicaragua, our decision with respect to which has been already openly taken, there is no difficulty, I believe, whatsoever in Her Majesty's Government assisting the United States Government in its general views with respect to that water communication across Central America, which Great Britain must be almost as desirous as the United States to see established. Our great object, therefore, as it has appeared to me, is to dis-

place the discussion from the claims of Nicaragua and Mosquito, on which it is unlikely that the two Governments of Great Britain and the United States should agree, and bring it to the consideration of the canal, on which it is almost certain that their views will be identical.

Having conversed with several persons of importance, and of different parties on this subject, and with Mr. Clayton himself, I am disposed to think that the best means of doing this is by a convention between Great Britain and the United States, having for its object to facilitate the construction of the desired passage between the Atlantic and the Pacific, upon such terms as, without entering upon the question of the rival claims of Nicaragua and the Mosquitos, would confer upon American commerce all it can desire to obtain in a manner corresponding with the dignity and honor of Great Britain, and the disinterestedness of her protectorate over the Mosquito territory.

H. L. BULWER.

Viscount PALMERSTON, G. C. B.

20.—*Sir H. Bulwer to Lord Palmerston.*

[Extract.]

No. 19.] WASHINGTON, *February* 3, 1850. (Received February 18.)

I should hardly have acted, however, in any formal manner on this consideration alone, but having heard of the very serious illness of Mr. Lawrence, and been informed by Mr. Clayton that if this gentleman recover he will not be able to transact public business for a considerable time, I deemed that I stood in one of those positions in which it is necessary for a public agent to take upon himself a certain degree of responsibility for the sake of the public service; and, consequently, when Mr. Clayton, after informing me of Mr. Lawrence's severe indisposition, and explaining to me the very critical position in which he himself stood, added that he must either deliver up the whole subject to popular discussion and determination, or come to some immediate settlement upon it, I entered with him into a full consideration of the affair, and finally agreed to submit to your lordship's sanction the inclosed project of convention.

In order to make clear the spirit and intention with which the said project is drawn up, I feel it necessary to enter with your lordship into some statement of my own views with respect to the questions out of which it arises, some statement of the causes which have raised these questions into importance, and some explanation of the nature of the solution which I have given to such questions.

It seemed then to me that Her Majesty's Government, after asserting, first by argument, and finally by force, the rights of the King of Mosquito over a particular territory, and driving therefrom the agents of the feeble Government of Nicaragua, could not, at the demand of another power of greater strength, restore to the Nicaraguans that territory from which they had been ejected.

Nevertheless, I was aware that the course which Her Majesty's Government pursued in this case was with a view to the general interests of commerce as well as to those of justice; and that so far from wishing to make the protectorate which Her Majesty exercises over the Mosquito territory, or that territory itself, subservient to the views of any small, selfish, or grasping policy, it would be your lordship's desire to make

both the one and the other useful, in the widest sense of the term, to the common advantage of mankind and the universal purposes of traffic and civilization.

Such being my conviction and knowledge on the one side, I was equally certain, on the other, that the interests of the United States were only incidentally involved in the question between Nicaragua and the Mosquitos, and mainly referred to another subject, which, though connected with the disputes which have arisen as to the extent of the Nicaraguan territory, admit of a separate adjustment.

The construction of any rail or water communication across that portion of Central America which separates, by a comparatively small distance of land, the two oceans of the Atlantic and Pacific would always have been of great interest to the United States; but since the possession of California and Oregon this interest has indefinitely increased, so that that which was once a question of convenience is now almost a matter of necessity. Thus the various routes by which a railway or canal could open a way between the two seas have, latterly, been under the constant attention of this government; and amongst the most feasible and important of the schemes indicated has been one of a canal, from the port of Realejo, through the Lakes of Nicaragua, to the mouth of the river San Juan.

Now, the state of Nicaragua made to an American company formed for the construction of such a canal, the grant, accompanied by various favors and privileges, of all such portion of the territory claimed by it, as the said company required; and, in the two treaties to which I have already referred, namely, those of Mr. Hise and Mr. Squier, the object of the American agents has evidently been to strengthen the contract which the above-mentioned company had made.

It was, however, impossible for the contemplated scheme to be executed under any grant from the state of Nicaragua as long as the mouth of the San Juan River was in the hands of another people or kingdom, protected by Great Britain; and, moreover, it was generally supposed that the Government of Great Britain had placed the Mosquitos in possession of Greytown, expressly in order to get hold of this entrance to the canal passage for itself, and, at all events, to prevent its falling into the possession or being subservient to the views of any other power.

On these grounds has arisen all the excitement here touching the British protectorate of Mosquito, and in this manner the United States has become interested in the dispute between the Nicaraguans and ourselves.

It is indeed most certainly true that if the American company, having the grant of which I have spoken from Nicaragua, had been disposed to carry it out in its original terms, and that if the United States Government had been prepared to accept the exact terms of the treaties made with Nicaragua by their agents it would have been impossible for Great Britain to favor an undertaking which expressly established a monopoly of trade for American citizens through the most important passage (if such a canal as that contemplated can be executed) that the commerce of the world can enjoy; and I cannot consider it unfortunate for the general interest that Her Majesty's Government should have been in a position to make its consent necessary to a work of such universal importance.

But both the American company to which I have alluded and the American Government have latterly manifested an earnest desire to have it clearly understood that they will modify all that portion of their original engagements with Nicaragua which secures any advantages to one state which another may not equally enjoy; and if such be the spirit

which is to preside over the vast project under consideration Great Britain has not only no interest in preventing its success, but every interest in forwarding its completion and providing for its security.

In this view of the case, the protectorate which Her Majesty exercises over the Mosquitos, instead of being prejudicial to the aforesaid enterprise, may be an essential element in its favor, and all that seemed to be required in order to bring Great Britain and the United States to a perfect understanding is, that both should abandon every particular advantage, the one such as might be derived from the protectorate over the Mosquitos, and the other such as might be derived from any contract or treaty with Nicaragua; and to make the fact that they do so clear and palpable, taking as the basis of their thorough good understanding the construction of that canal which offers benefits common to the two, and dropping as a point of controversy those disputes as to the Nicaragua and Mosquito territory, on which it is next to impossible that they should come to any agreement.

It is with such views that the inclosed convention has been drawn up, its object being to exclude all question of the disputes between Nicaragua and the Mosquitos, but to settle, in fact, all that it was essential to settle with regard to those disputes as far as the ship communication between the Atlantic and the Pacific and the navigation of the River San Juan were concerned.

There are indeed stipulations which extend farther than the mere engagement, on our part, to use our best endeavors to obtain the free transit of this river, inasmuch as that we also in the said convention agree, as do the United States, not to occupy or colonize either Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; but in consenting to these provisions, I know that I merely carry out the views and opinions of Her Majesty's Government, which have been already expressed on this subject, though in a less formal manner.

I do not pretend to say that the project of convention thus submitted to your lordship's consideration is such, either in its precise terms, arrangements, or enactments, as I should have myself proposed, or, if there had been more time for alteration and discussion, adopted. But it settles the main question immediately at issue, and also establishes a general basis for a common policy and perfect good understanding between ourselves and the United States in that portion of the world which has latterly been the scene of constant suspicions and angry rivalries on the part of our agents, and is, moreover, the record of great and noble views entertained and expressed by two great and kindred nations on one of the works most likely to commemorate our epoch, and to be of the utmost interest and importance to commerce and civilization.

For these reasons, I confess that I send it to your lordship, with the humble confidence that it will, as a whole, meet with your approval.

At all events, I know that it is an arrangement which Mr. Lawrence could hardly have made in England, and that I myself could not have made here except after much preparation and under favorable circumstances.

I may add that it will probably be attacked with violence by the parties who are for supporting Mr. Monroe's famous doctrine at all hazards, and who contend that Mr. Hise's convention is the only one that this country ought to adopt or sanction; but, on the other hand, I think I can promise that it will be duly esteemed and approved of by the Senate, and carry with it the weighty sanction of all reasonable men.

H. L. BULWER.

Viscount PALMERSTON, G. C. B.

[Inclosure.]

Project of Convention respecting the Isthmus Canal.

The United States of America and Her Britannic Majesty being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific Oceans, by the way of the River San Juan de Nicaragua, and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of The United States has conferred full powers on John M. Clayton, Secretary of State of The United States, and Her Britannic Majesty on the Right Hon. Sir Henry Lytton Bulwer, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to The United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ART. I. The Governments of Great Britain and The United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal, agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy or colonize either Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will Great Britain or The United States assume or exercise any dominion over the same, or take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or people through or by whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to the commerce or navigation through the said canal, which shall not be offered on the same terms to the subjects or citizens of the other.

II. Vessels of Great Britain or The United States traversing the said canal shall, in case of war between the contracting parties, be exempted from detention or capture by either of the belligerents, and this provision shall extend to such a distance from the 2 ends of the said canal as it may hereafter be found expedient to establish.

III. In order to secure the construction of the said canal, the Contracting Parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the Local Government or Governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used or to be used for that object, shall be protected, from the commencement of said canal to its completion, by the Governments of The United States and Great Britain from unjust detention, confiscation, seizure, or any violence whatever.

IV. The Contracting Parties will use whatever influence they respectively exercise with any State or States, or with any people possessing, or claiming to possess, any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or people to facilitate its construction by every means in their power. And furthermore, Great Britain and The United States agree to use their good offices wherever or however it may be most expedient, in order to procure the establishment of 2 free ports, one at each end of the said canal.

V. The Contracting Parties further engage that when any such canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of The United States and Great Britain, in according their protection to the construction of the canal which this Treaty specifies, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments or either Government, if both Governments or either Government should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this Convention; either by making unfair discriminations in favour of the commerce of one of the Contracting Parties over the commerce of the other, or by inflicting oppressive exactions and unreasonable tolls upon passengers, ships, or merchandise; neither party, however, shall withdraw the aforesaid protection and guarantee without first giving 6 months' notice to the other.

VI. The Contracting Parties in this Convention engage to invite every nation, state or people, with whom both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that the whole world may share in the honour and advantage of having contributed to a work of such general interest and importance; and the Contracting Parties likewise agree that each shall enter into treaty stipulations with such of the Central

American nations, states, or people, as they may deem advisable for the purpose of more effectually carrying out the great design of this Convention; namely, that of constructing and maintaining the proposed ship communication between the 2 oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations.

VII. It being desirable that no time should be unnecessarily lost in commencing the great undertaking herein contemplated, the Governments of The United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this Convention.

VIII. The Governments of The United States and Great Britain, in entering into the present Convention, have not only desired to accomplish a particular object, but also to establish a general principle; they therefore hereby agree to take under their consideration any project for a canal or railway which may be submitted to them, and which may have for its purpose to connect the Atlantic and Pacific, or to shorten and expedite the transit of persons, ships, or merchandise between the 2 great oceans: and should either of the 2 Governments deem it to be beneficial to the general interests of commerce and civilisation to extend its support, encouragement, or protection to such railway or canal, it will forthwith invite the other of the 2 Governments to be a joint party in affording such protection, support, or encouragement; and will neither request or accept from any persons, company, or state, any advantages or privileges for its own citizens or subjects with respect to such railway or canal which shall not be open for all other Governments to obtain for their citizens or subjects upon the same terms as those which are proposed to or accepted by itself.

21.—*Lord Palmerston to Sir Henry Bulwer.*

FOREIGN OFFICE, *March* 8, 1850.

SIR: I have received your dispatch of the 3d ultimo, in which you state the reasons which had induced you to enter with the American Secretary of State into a full consideration of the questions connected with the proposed plan for establishing a communication between the Atlantic and Pacific Oceans, by a ship-canal, by way of the river San Juan de Nicaragua and the lakes of Nicaragua and Managua; and you inclose the draft of a convention on this subject which has been agreed upon between you and Mr. Clayton, subject to the approval of Her Majesty's Government.

I have to acquaint you that Her Majesty's Government entirely approve of the course which you have pursued in this important affair. You are therefore authorized to sign, on the part of Her Majesty, the convention of which the draft is inclosed in your dispatch above mentioned; and in order to enable you to do so, I transmit to you a full power, which the Queen has been pleased to grant to you under the Great Seal, constituting you her plenipotentiary for this negotiation, or for any other negotiation with the United States that may arise during your mission.

I have also to instruct you to deliver to the American plenipotentiary, at the time of the signature of the convention, a note stating that you have received the express order of your government to declare, with reference to the engagement taken by my letter to Mr. Lawrence, dated the 13th of November last, a copy of which was inclosed in my dispatch to Mr. Crampton of the same date, that the British Government has no intention to make use of the protection which Great Britain affords to the people of Mosquito, for the purpose of doing, under cover of that protection, any of the things the intention to do which is disclaimed in the letter to Mr. Lawrence above referred to.

The exchange of the ratifications of the convention may be fixed to

take place as soon as possible, either at Washington or at London, as may be deemed most convenient by you and Mr. Clayton.

After the convention shall have been signed and ratified, Her Majesty's Government will be happy to concert with the Government of the United States as to the mode and form in which the engagement contained in Article VI of the draft of convention shall be carried into effect; whether by treaties with other powers, comprising stipulations in harmony with those contained in the proposed convention between Great Britain and the United States, or by treaties of accession. If treaties of accession should be adopted, the convention should be annexed to each of such treaties, accompanied by an engagement to adopt the principles and stipulations therein recorded, so far as they may be applicable to the acceding power.

I am, &c.,

PALMERSTON.

Sir HENRY BULWER.

22.—*Decree of the director of Nicaragua of March* 9, 1850, *incorporating the American Atlantic and Pacific Ship-Canal Company.*

Whereas the American Atlantic and Pacific Ship-Canal Company should be legally accredited in the state for the exercise of its functions in such a manner as not to meet with any embarrassment in the development and prosecution of the enterprise, and as it is indispensable that the government of the state should grant it all the means which are in its power for this object: Therefore, in virtue of its faculties, the government has resolved to decree, and does decree, the following act of incorporation:

First. The state of Nicaragua hereby makes, constitutes, and appoints Cornelius Vanderbilt, Joseph L. White, Nathaniel H. Wolfe, and their associates, whomsoever the same may be, now or hereafter, a body politic and corporate with perpetual succession, by the name and description of the American Atlantic and Pacific Ship-Canal Company, for the purpose of carrying into full effect the objects and purposes of the grant and charter heretofore made and given by said state to the aforesaid parties, in such manner and by such means as to them and their successors may seem proper, and not inconsistent with said grant and charter; and for such purpose the aforesaid parties and their successors are hereby invested with all necessary power and authority as a body corporate and politic.

Second. The said body corporate may, from time to time, in any manner which to them may seem proper, pass by-laws and adopt rules and regulations for the management and government of the said body corporate and its business, fix the amount of capital stock thereof, increase and regulate the subscriptions to the same, designate the number of shares and value thereof, define the mode of issuing, and issue the same, and provide for and regulate the manner of transferring the same, by themselves or their officers, and do all other acts and things which to them may seem necessary or proper, fully to execute and carry out the purposes of the said grant and charter.

Third. The said body politic and corporate may, from time to time, as it may determine, select a board of directors, and all other officers, and appoint agents and servants for the management of all the business and affairs of said company, which said board, when elected, as the said body corporate may provide, together with the president, shall be

invested with all the powers of the said body corporate, unless by the said body the same shall be limited or defined; and the said body corporate may provide by by-laws, or otherwise, for the number of directors, the manner and time of their election, and the duration of their term of office.

Fourth. The said body corporate and politic shall adopt a common seal, and may, from time to time, alter the same, and shall have power to sue and be sued to final judgment, plead and be impleaded, complain, answer, or respond in all the judicial tribunals of this state, to the same extent as a natural person and a citizen of the state.

Fifth. The capital stock of said body corporate, and all of their property, choses in action, rights and effects, shall at all times and forever be exempt from taxation, charge, or other burden or duty whatsoever, on the part of the state.

Let it be communicated to the company by the conduct of David L. White, and to the authorities and functionaries of the state whom it may concern.

Given in Leon, the 9th day of March, in the year 1850.

NORBERTO RAMIREZ,
Supreme Director.

Mr. SEBASTIAN SALINAS,
Secretary of Foreign Relations.
SEBASTIAN SALINAS.

23.—*Mr. Lawrence to Mr. Clayton.*

[Extract.]

No. 44.] UNITED STATES LEGATION,
London, April 19, 1850.

SIR: * * * There is on the eastern coast of Central America, between Cape Honduras on the north, and the San Juan River on the south (possibly extending as far even as Boca del Toro), a tract of low, swampy, unhealthy land of a various width, and rising in its western border into highlands and mountains. The lower part of this country has never been much occupied by Europeans in consequence of its insalubrity. The mountainous parts are said to contain but little valuable mineral stores. At the time of the discovery by Columbus, and until within a comparatively recent period, it was inhabited by some fifteen or sixteen tribes of Indians, speaking different languages, and often at war with each other, and, among others, there was a tribe known as the Mosquitos (so called by the early voyagers from the abundance of *moscas* found on the coast), living between Cape Honduras and Cape Gracias à Dios. They gradually overcame and almost exterminated the more southern tribes, aided, perhaps, by the buccaneers, and by degrees the name of Mosquito came to be applied to all living north of the Bluefields, and I think in all the discussions of the last century relating to the subject, the Mosquito country was never understood to extend far, if at all, below the river. It is now defined by Lord Palmerston as reaching to the San Juan River, embracing the northern bank so as to take in San Juan de Nicaragua (anglicized into Grey Town), and command the mouth of the river. In my opinion, it is quite immaterial where the royal geographers are directed to draw the line, as I am satisfied the whole claim is without just foundation. All the good maps of the sixteenth, seventeenth, and eighteenth centuries—

French, Spanish, Dutch, and English—carry Honduras from coast to coast; Nicaragua the same, and fix the southern terminus of Mosquito shore at or near where I have indicated.

The character of the Indians at present occupying this country deserves notice, since Great Britain seeks to invest them with the attributes of an independent nation.

In the year 1836 one James Woods, a native of Ipswich, in the county of Suffolk, allured by the promises of an emigration company, set sail for Vera Pas. On his return in 1840 he published a sketch of his adventures in Central America to serve as a warning against similar companies. Among other places, he resided a while at Cape Gracios à Dios in charge of a store of provisions, rum, &c., &c. He says:

> The rum was a dangerous thing in the store, for the Indians will kill a man for the sake of a glass of rum, and there were only five Europeans on the Cape. I had a demijohn of brandy for the Indian King, but he was gone up the river. He and his brother were taken from the Mosquito shore when young and carried to the Island of Jamaica, where they were taught to read and write the English language. After staying there for several years they were brought back to the Mosquito shore. One was made king, the other a general, and although brought up in a civilized state, yet they returned to the wild and savage state in which their people live, getting drunk and giving themselves up to the most disgusting habits. No sooner had the King heard I had a demijohn of brandy for him than he set out to return home. He went to the house of a Frenchman named Bouchet, who came down to the store and told me His Majesty wished to see me. I went up to the house, where the King was lying on a bed rather unwell. I made my compliments to him, and asked how he did; he told me he was very poorly, and that he wanted me to draw him a gallon of brandy. Accordingly I went down to the store and drew him a gallon, which I carried to him. He asked me to drink, and stay and dine with him, which I did. He told me that he loved me; I replied, you love the brandy better; but I turned it off with a laugh, or he would have been offended with me. He staid for two or three days, and then left for Bluefields. These Indians far exceed all the Indians I have ever met with in lying, thieving, and everything that is disgusting. They are given up to idolatry, and lead an indolent life.

After giving details of their ignorance and barbarism, he adds: "They are also great drunkards, and are never easy but when they are drunk." And of the English settlers on the shores, he says, they "are almost as bad as the natives, and live in almost as disgusting a manner." This strong picture, painted by an Englishman, is borne out by the personal relations of many other travelers.

The historical portion of this paper will relate not to Mosquito alone, but to Central America, from Tehuantepec to Panama. The naval and military operations of the Spaniards were so extensive, their conquests were so complete, and their settlements were so rapid and numerous, that it is impossible to separate the conquest and colonization of that part of Nicaragua and Honduras called the Mosquito coast from the subjugation and settlement of that portion of them to the west of the indefinite line swaying across their interior at the will of the foreign office.

* * * * * * *

I am left, therefore, in this connection, only to show that Spain *discovered* Central America and *occupied* it. I believe that she did much more: that she discovered, circumvallated, explored, conquered, settled, retained possession of, and governed it, with only such interference as the rudeness of the times permitted, or rather could not prevent.

The principal authorities for the early history of Central America are Oviedo, Peter Martyr, Gomara, Enciso, Cortes, Las Casas, Herrera, Torquemada, Remesal, Cogolludo, Wytfleit, De Saet, Ogilby, Villagutierre, Sanson, Moll, Jefferys, Navaretto, Juarros, Linschot, Boterro, Hakluyt, Purchas, Alcedo, &c., &c. I have caused all these to be carefully

examined and compared with many other writers, Spanish, English, Dutch, and French. The following facts are derived chiefly from the above sources:

Columbus in his fourth voyage first made land on the North American continent at Cape Honduras, near the present town of Truxillo, on the 17th of August, 1502, and thence proceeding easterly, shortly afterwards entered the mouth of Black River, and in accordance with his instructions landed and took formal possession of the country, in the presence of the unresisting natives, in the name of the crown of Castile. In the early Spanish maps this river is called the Rio del Possession, a name given to it by Columbus himself in commemoration of this event. He next touched and took possession at Cape Gracios à Dios, where he remained a short time, holding friendly intercourse with the natives, whom he described more favorably than he did their country. Thence he coasted leisurely southward toward Veragua, communicating often with the inhabitants, and touching particularly at the Bluefields River, and at the mouth of the San Juan.

The results of this voyage being known in Spain, expeditions were fitted out at different times under various commanders, which reconnoitered thoroughly the entire coast from Darien to the Bay of Honduras, penetrating even to the extremity of Gulf of Dolce, and thence along the coast of Yucatan. Much intercourse was held with the natives, and every river and bay was penetrated to find the supposed strait to the land beyond the Ganges, for this country was then believed to be an island, or part of India, and the Spaniards were not fully disabused of the idea until the discovery of the Pacific by Balboa in 1512. After this event expeditions sailed from year to year along both the Atlantic and Pacific coasts, with the double purpose of discovering the supposed passage connecting the two oceans, and of exploring, conquering, and settling the country, and so rapidly were the latter objects accomplished that by the year 1530, not only the Pacific coast from Panama to the Gulf of Fonsecas had been reconnoitered, but the interior from Tehuantepec to Veragua had been crossed and recrossed; many tribes of Indians had been subjected, and towns had been built under the commands of the two d'Avilas Olid, Francis de Las Casas, Cortes, Alvarado, Gringalsa, Cordova, Roxis, Montejo, &c. From the nature of the country, as I have already described it, the principal settlements were made near the Pacific coast, but the Spaniards did not neglect to consummate their title on the eastern shore, Truxillo, Omoa, and other towns on the bay of Honduras were founded in 1524. Roxis attempted a settlement at Cape Gracios à Dios in 1530, which he found impracticable from the nature of the country. Merida was founded in 1542; Valladolid in 1526, and rebuilt in 1543; Campeche in 1540, and in the interior many towns were built (as Olancho, Comajagua, Segovia, &c. Before 1530 the greater proportion of the very numerous tribes of Indians were subjected to the Spanish authorities either by the military or the ecclesiastical power, for, after the coming of Las Casas, the missionaries did nearly as much as the soldiers in controlling the aborigines. Nicaragua and Honduras are reported to have been most densely populated at the time of the discovery; but scarcely half a century had elapsed before nearly nine-tenths of the natives had faded away before their bloody conquerors. As early as 1524, Cortes wrote to the Emperor Charles V that only two of the many tribes of Honduras remained unconquered. Shortly after these yielded to the power of Alvarado. Some fled to the mountains, and the country now known as Mosquito, where they remained unmolested, protected by their own weakness, and by the want of mineral wealth in the soil on which

they had taken refuge. They were shielded too by a still stronger arm. Spain, ever jealous of the interference of other European powers in her traffic, left the region unsettled to be a barrier between the Atlantic and the golden regions of the West. But though she neglected to cultivate she never neglected to protect and defend. Guarda costa were early established, to protect the coast, and watch over the argosies, as they set sail for the old world.

The natives of Mosquito were thenceforward constantly under the influence both of the Franciscan and Dominican orders of missionaries. From 1575 to a very late period, Spanish missionaries have almost always resided, by order of the government, among the numerous tribes of Mosquito. Sometimes as many as twenty at a time were there exerting a great influence in softening the barbarity of those savage tribes. It is true that many of them were subjected to the most revolting cruelties, and suffered death itself, yet in almost every instance these were caused by the hostilities and treacheries of these warlike tribes among themselves, and not, as the English writers assert, by their hatred of the Spanish yoke. The missionary was destroyed, not by the tribes with which he lived, but by its enemies. Fortunately the histories of the Franciscan and Dominican orders give ample details of these extraordinary missions.

I think I have now established all I promised with reference to the discovery, conquest, and settlement of this country by Spain. It is not to be conceded, however, that the exaggerated accounts of her wealth and the value of her commerce soon attracted hostile parties to these shores, who in process of time increased in power, and became the foundation for claims adverse to her territorial rights on the Mosquito coast. This brings me to a notice of the buccaneers, or pirates of the West Indies.

The early buccaneers were composed of English, French, Dutch, and Portuguese adventurers. The private enterprises of Drake and his cotemporaries are well known. Like all other buccaneer adventurers for half a century later, they were directed against the Spaniards, only because Spain was the wealthiest and most commercial nation, and therefore the best object of plunder. During time of war (and it should be borne in mind that Spain was almost constantly at war with some European power) these pirates managed to get from unscrupulous governments letters of reprisal, and sometimes sailed under English, sometimes under French, sometimes under Dutch, and sometimes under Portuguese commissions, as the case might be. Spain treated them all alike as pirates. England, in those days, so far from availing herself of their acts, disclaimed them. The Spanish ambassador at London repeatedly remonstrated against their depredations, and was always met with a disavowal. By the time of Cromwell they had become very numerous. Spain increased her guarda costa, and sought to protect herself by destroying them, but this only served to unite all shades and nations together under a kind of piratical republic of the sea. Meanwhile England, France, and Holland had each gained a footing in the West Indies. The pirates had grown so numerous that no power was exempted from their depredations. England felt their influence and was about negotiating with Spain for their overthrow, when the difficulties between Charles and his Parliament interfered to prevent. When the negotiations were renewed with Cromwell he put off the conclusion of a treaty till he could secure some conquest in the West Indies, and dispatched secretly an expedition against Cuba, which, failing in its object, won Jamaica in 1655 to English dominion. Then England of-

fered to negotiate, and define the respective rights of England and Spain, but the latter refused. Immediately after the conquest of Jamaica the governors of that island turned their attention to the pirates; and, finding their reduction too difficult a work, sought to take advantage by regulation of what they could not destroy by force. The stringent measures they took induced many to abandon their dangerous avocation, and retire to the Indians of Yucatan, Honduras, and Nicaragua, with whom they had been in intercourse for many years, and hence the great increase of the English trade in logwood, and subsequently in mahogany. The Mosquito Indians about Cape Gracias á Dios had been repeatedly stimulated by the Dutch, French, and English adventurers during the several wars against Spain, to join in the expeditions against the Spanish settlements, and indeed were on such friendly terms with all that each claims the priority of intimacy with them. The earliest attempt of the English to tamper with them was under Sir Thomas Modyford, governor of Jamaica, about 1677. His proceedings were not approved, and in 1670 he was arrested and sent to England. The illicit trade in logwood and other things from Campeche to the Bay of Honduras and the Mosquito country had become so offensive to Spain, who feared that it might cover a permanent occupation, that she was induced to enter into the treaty of 1670, which yields to England the islands she had conquered in the West Indies, defined for the first time the respective rights of the parties, and has been made the basis of all subsequent treaties. This brings me to the second position of the British Government.

By the seventh article of the treaty of Madrid "it is agreed that the most Serene King of Great Britain, his heirs and successors, shall have, hold, keep, and enjoy forever, with plenary right of sovereignty, dominion, possession, and propriety, all those lands, regions, islands, colonies, and places whatsoever being or situated in the West Indies, or any part of America, which the said King of Great Britain, or his subjects, do at present hold and possess." It is plainly of great importance to the present inquiry to determine what lands, regions, islands, colonies, or places King Charles, or his subjects, held or possessed in America on the conclusion of that treaty.

Now it is evident that this article was inserted in the treaty to determine a previous conflict of claims to sovereignty, by the fact of existing possession, and that where the claims of the parties had not come in conflict, it had no validity. Leaving out of view all the American continent to the north or south of Central America and the Indies, it is well known that the title to Jamaica was in dispute, and that this article was expressly inserted to settle it by confirming England's occupation. Had it any reference beyond that to Mosquito? After the preceding review I think I am warranted in saying it had not, because, in the first place, I am unable to find that the sovereignty had ever been in dispute; and because, in the second place, the only possession approaching a hostility to Spanish right was that of the buccaneers, composed of all nations, which was not continuous, which was piratical, and therefore clearly illegal, which was disavowed by England, and therefore cannot inure to her, and which was made in admission of Spain's title, since it was a war upon Spain.

And further, Great Britain does not now claim ever to have held or possessed Mosquito. To adopt a little of Lord Palmerston's severity of criticism on the language of treaties, I say that the terms "hold" and "possess" have definite meanings in international law, that they imply title, either temporary, as in the case of a violent occupation in time of

war, or permanent, to which occupation is not a necessary incident. The claim under which Great Britain shelters the illegal occupation of Mosquito by the English is not set up in itself, but in a monarch of its creation, who is alleged to reign under its protection.

The political relation of protector and protected is not a new one. It grows out of contract. It implies sovereignty in each party, for when the sovereignty of the lesser merges in that of the greater, the peculiar relation ceases. Any occupation, therefore, by the English, at any time must have been (by their own showing) as under Mosquito. Any possession must have been the possession of Mosquito. And when that possession is demonstrated to be, not adverse to, but under Spain, their title, being that of a privy in estate, must take the same course.

Any light in which we view the claim presents a tissue of inconsistencies. To defeat the Spanish title it is alleged that the Indians are an independent nation, whom Spain could never conquer; while, on the other hand, to let in Great Britain to the benefit of such a defeat, it is said that her protection is necessary to enable them to protect themselves against the Spaniard. Either they are an independent nation of themselves, capable of existing without this protection, and therefore not entitled to it, or the aid has been rendered in bad faith to maintain a tribe of savages in revolt against their sovereign.

The contemporaneous construction of the treaty of Madrid shows that the right of Spain to the whole of Central America was not questioned. Sir William Godolphin, the ambassador to Spain, who negotiated and signed the treaty on the part of Great Britain on the $\frac{10}{20}$ May, 1672, wrote to Lord Arlington from Madrid as follows:

Your Lordship hath required my opinion touching the cutting of logwood in the West Indies by some English on pretence that the Parts where they take the same are not Inhabited or Possessed by the Spaniards. * * * * In answer, * * * the said wood is brought from Yucatan a large Province of New Spain, extending into the North Sea like to a Peninsula ab't a hundred leagues in length, sufficiently Peopled in respect of other places of those Indies having several good Towns as Merida Valladolid, San Francisco de Campeche &c., the Govern't thereof being likewise esteemed one of the most considerable there next to the two Vice Royaltyes of Peru and Mexico. * * * * Now this wood growing on the northern coast of Yucatan * * * * is commonly called here Campeche wood. * * * This premised we may reasonably conclude the Crowne of Spayne to have as well too much right as advantage in these woods, not to assert the Propriety of them, for though perhaps they are not all inhabited (which is not to be admired) or distinguished into particular Tenements, but remaine in common, yet they are in generall possessed by these People who may as justly pretend to make use of our Rivers Mountains, and other commons, for not being inhabited or owned by individual Proprietors, as we can to enjoy any benefit of those woods.

And this is the sense of all the Spaniards, who esteeme themselves in full possession of every part of that Province, notwithstanding that it containeth much Territory unpeopled, since (as I have said) to inhabit and possess are distinct, neither is the former essentiall to the latter.

* * * * * * *

Lastly what will render the pretension to a freedome of cutting this wood more odious to the Spaniards is, that in consequence thereof, and for the same reason wee may inferre a liberty to inhabit there, opening a doore to any farther attempt wee may designe against theere continent.

* * * * * * *

Thus much to the merritts of the cause, & the point of strict justice.

But now, after all this, I will adventure to give my opinion, that if the English in the cutting wood at Campeche would restrain themselves to that alone, observing to doe it in parts neerest to the sea, more remote from their Towns * * * and without making inroads or other depredations on the Country, it may be adviseable for his Maj'y, though not to authorize yet to connive * * * sure for when they [the Spaniards] see the American Treaty in other points punctually complyed with and no other spoyle committed than the bare cutting of that wood * * * they may be induced to connive likewise.

When it is remembered that up to this time all geographies conceded, or rather never doubted, the right of Spain to the whole of this part of the continent, that that right had been intruded on only by the buccaneers, and that these intrusions had been confined to Yucatan and its neighborhood, and had not yet extended as far south as Mosquito, which was a part of New Spain, of which "the Spaniards then esteemed themselves in full possession of every part," the completeness of the testimony will be understood and its almost prophetic nature appreciated. And I am prepared to show, in addition, that the connivance of the governors of Jamaica in such cutting and encroachment was encouraged and approved in London.

I shall now assume it to be clearly proved that in 1670, while the English had no right, either directly or indirectly, in Mosquito, Spain held undoubted sovereignty over it, and shall travel forward to the year 1739, when hostilities commenced between Great Britain and Spain, during which a permanent occupation of this country by the former power was for the first time attempted. Most of the acts of occupation or protection (for they sometimes take the one form and sometimes the other) on the part of England took place between this date and the peace of Paris in 1763, and were either done during a time of hostilities or were themselves causes of a subsequent war. It is plain, therefore, that, being aggressive, they cannot now be used by Great Britain to set up the alleged title in the Indians.

On the 19th of October, 1739, war was declared against Spain, ostensibly because she had neglected to pay the paltry balance of £95,000 according to treaty; but the real object of the British colonists appears to have been to gain a stronger footing in the West Indies before concluding a peace. On the 17th of August, 1740, Sir William Pultney, of the Admiralty, wrote to Admiral Vernon, then in the West Indies, a long letter, detailing the plans of the Government. He says:

> To ravage the coast of Spain (supposing we could do it) seems to be with a desire only of forcing the Spaniards into a peace before we have secured such advantage as we may reasonably hope for in another place. Every man of sense agrees that the only place to push them in is the West Indies, and there we can be too hard for them, and may defy the whole world besides. * * * We [England] one and all cry out there is no dependence on the faith of treaties. Something must be done to keep the Spainards from insulting us again, and we must no longer rely on bare promises only for the security of our navigation and commerce. Take and hold, is the cry. This plainly points to Cuba. * * * It [the taking of Carthagena] might be a very sensible mischief to Spain, but what we now immediately want is advantage to ourselves. * * * When we are once possessed of it [Cuba] the whole world will not be able to dispossess us again. We may then make peace with Spain without the intervention of France, giving them almost anything in Europe they may desire, but showing them at the same time they shall in great measure depend upon us, the chief maritime power, and convincing them of the truth of their own old proverb: *Peace with England and war with the whole world.*

During the years 1739 and 1740 many projects were framed for the purpose of gaining the desired footing in the West Indies, for the accounts of the wonderful details of which we are indebted to the principal actors in them, many of whose most confidential letters, owing to private quarrels, have been published. In addition to these, I have been permitted to examine the original Vernon and Wager manuscripts, a collection embodying in the original official as well as private letters of the Duke of Newcastle, of Sir Charles Wager, of Admiral Vernon, of Sir William Pulteney, of Governor Trelawney, of Mr. Robert Hodgson, and of many others, a mass of authentic information never published, and not existing anywhere else, unless in her Majesty's state-paper office. I am happy to say that this collection will probably go to America, as it is now owned by an American gentleman.

As soon as hostilities were determined upon, the Duke of Newcastle (on the 15th of June, 1739) directed Governor Trelawney to be on his guard against any attempt of the Spaniards against Jamaica, and gave him full power and liberty to annoy the enemy. He directed him also to encourage the taking out of letters of marque and reprisal against the Spaniards, and to authorize descents upon the Spanish settlements.

On the receipt of these orders, Governor Trelawney at once revived the old scheme of the Mosquito Indians, and on the 20th January, 1739-'40, wrote to the Duke of Newcastle, advising a settlement upon the Mosquito shore. About one hundred Englishmen, he said, were there, "mostly such as could live nowhere else." He proposed to bring all the English in that quarter together in one settlement, so that by the help of the Mosquito Indians, whom he calls his "friends," they might induce the neighboring Indians to revolt, and thus by supporting the Indians "a little, spread the revolt from one part to another till it should be general over the Indies, and drive the Spaniards entirely out or cut them off." Accordingly, early in 1740 he commenced his Quixotic scheme by sending one Robert Hodgson to the Mosquito shore, fully equipped with everything necessary to enable him to tamper with the Indians and excite them against the Spaniards. I am fortunately able to give from the Vernon manuscripts Mr. Hodgson's own account of what he did under this extraordinary commission:

SANDY BAY, *April* 8, 1740.

May it please your excellency: * * *

King Edward, being informed of my arrival, sent me word that he would see me the next day, which he did, attended by several of his captains. I read to him your excellency's letter and my own commission, and when I had explained them by an interpreter, told my errand, and recommended to them to seek all opportunities of cultivating friendship and union with the neighboring Indian nations, and especially such as were under subjection to the Spaniards, and of helping them to recover their freedom. They approved everything I said, and appointed the 16th to meet the governor, John Briton, and his captains at the same place, to hear what I had further to say.

On the 16th they all came, except Admiral Dilly and Colonel Morgan, who were sick. General Hobby and his captains were at too great a distance to be sent for, but, their presence not being material, I proceeded to acquaint them that, as they had long acknowledged themselves subjects of Great Britain, the governor of Jamaica had sent me to take possession of their country in his majesty's name; then asked if they had anything to object. They answered they had nothing to say against it, but were very glad I was come for that purpose; so I immediately set up the standard, and, reducing the sum of what I had said into articles, I asked them both jointly and separately if they approved and would abide by them. They unanimously declared they would; so I had them read over again in a solemn manner under the colors, at the end of every article fired a gun, and concluded with cutting up a turf, and promising to defend their country and to procure them all the assistance and instruction from England in my power.

The formality all this was done with seemed to have a good influence upon them, for they often repeated their desire of learning to read, and said they must now mind their kings more than they had done, and do all they could to help themselves and hurt the Spaniards, to whom I recommended all the mercy that was consistent with their own safety; but they seemed not to understand me rightly, saying if they fight they must kill. The articles I inclose, and hope your excellency will excuse so much ceremony, for, as I had no certain information whether the country was ever taken possession of before or ever claimed otherwise than by sending them down commissions, I thought the more voluntary and clear the cession of it was the better. The governor came attended with a numerous guard, who behaved to him with much respect and *silence*. He is a sensible old man, and carries a good command. The king being very young, I believe not twenty, is not much observed, but was he to be a while in Jamaica or England 'tis thought he would make a hopeful monarch enough.

* * * * * * *

The same day Admiral Dilly and Colonel Morgan sent me word they were coming to wait on me. I immediately crossed the lagune to meet them, hearing they were sensible, clever fellows, and such I found them. They had dispatched a messenger to the governor to meet them the next day, to hold a general and decisive council.

They all met on Sunday, the 23d, at Senock Dawkra (Mr. Whitehead's house). The

governor, being sick, tried our patience by making us wait till the afternoon, but when he came made ample amends by the justness of his sentiments.

He told the king and his captains it was plain they had got a name and the good opinion of the governor of Jamaica (whose success against the rebellious negroes they had all heard of), and if they did not keep it up what would the world say of them? There was an officer now sent down by your excellency to observe their manner of fighting, and if they did not do their best they should lose the favor of the English. It was true they were but a small number of people, compared to us, who had men to spare for sickness and the sword, but if they showed themselves worthy, no doubt the King of Britain would sent a force sufficient to get them all they wanted, besides teachers to instruct them in what is right and good. He said General Hobby had often talked about taking towns in time of peace, and called the English cowards. Now it was war they must show they were not such themselves; that the English were the best judges when war or peace was proper; and none of them had any business to act otherwise than they were directed by the governor of Jamaica. * * * *

I find my council about sobriety has had some weight with the old men, but the young ones are got together there since with the women into drinking-bouts. They intoxicate themselves with a liquor made of honey, pine-apples, and cassada, and if they avoid quarrels, which often happen, they are sure to have fine promiscuous doings among the girls. The old women, I am told, have the liberty of chewing the cassada before 'tis put in, that they may have a chance in the general rape as well as the young ones.

I fell into one of them by mere accident last Monday, where I found Admiral Dilly and Colonel Morgan, retailing my advice among them, to little effect, for most of them were too drunk to mind it, and so hideously painted that I quickly left them to avoid being daubed all over, which is the compliment they usually pay their visitors on those occasions.

Those two captains complain much of their drinking, but say it has been taught them by the English; others say not, for how should the English invent the pine and cassada drink? Their resentment of adultery has lost its edge, too, more than among other Indians; that, I make no doubt, they are obliged to us for. Their breach of promises in their bargains I take to be a good deal owing to a sense of being defrauded by traders, but through their ignorance of numbers and value, not being able to tell how, they are apt to make improper reprisals. As for their laziness, the grand promoter of the rest, I really think it must have been owing to their discontent at the usage they have received from privateers and others, because I don't find it has been epidemical amongst them till lately.

* * * * * * *

I have disposed of several presents, but their returns being chiefly in visits to get more or to drink punch, I have stopped my hand. The Lubeck duck osnaburgs, powder, ball, flints, and shot I shall divide among them at setting out, with a promise that they shall pay me according to their behavior or their plunder. * * *

ROBT. HODGSON.

APRIL 12, 1740.

P. S.—Had I been better informed, I might have made a little fortune out of your excellency's money and done more justice to the cause, for the Mosquito men have not got half guns enough, so must be supplied by Stewart and the other white men that go with us, who, no doubt, will make them pay sound.

* * * * * * *

The origin, character, history, and results of the British intrigues in this quarter are all disclosed in this letter. They originated in public and private cupidity, in the desire of territorial aggrandizement, and of personal gain to the governor of Jamaica. They were pursued in the same spirit by the distribution of intoxicating liquors and missiles of destruction among the savages, and by exciting them to an unnatural war against the Spaniards. They resulted in the complete degradation of the Indians themselves, a degradation which they have never been able to shake off. Yet this is the "protection" Great Britain sets up and seeks to perpetuate.

Mr. Hodgson skillfully aroused the old resentment of the Indians against the Spaniards, and induced them to join him in an expedition which proved a failure. He, however, remained among them, and was instructed by Governor Trelawney "to endeavor to persuade the Indians to form themselves into some sort of a government."

Meanwhile the home government had the scheme under consideration, and approved of it. But Sir Charles Wager had fallen in with another adventurer, named Lee, and wrote to Admiral Vernon from the admiralty office as follows, under date May 23, 1741:

I sent Governor *Trelawney*, by the last ships, some accounts I had from one Captain Lee, who was some time a factor to the South Sea Company, at *Guatimalla*, of the particular situation, riches, and trade of that part of the continent, which is much more than I imagined. The governor's *Don Quixotte*, Mr. Hodgson, seemed to want this Captain Lee with him, and I could have seen him had it not been for some difficulties, but I had his scheme in writing, and sent it to *Plymouth*, but the ships were gone before it came there.

Again, on the 18th of August following, he wrote to the admiral thus:

I sent you by the last ships a scheme of Captain Lee for a proper number of soldiers, when they can be spared or can do nothing more considerable, to go down to the Mosquitos, and, with or without them, to make attempt on the Spaniards up the river Dulce, where Captain Lee seems perfectly acquainted; but as we have made him captain of the *Bonetta* sloop, purely for the sake of this scheme only, I refer you to him for a clear explication of the whole scheme, which in its consequences may be much more considerable than it appears at first sight, for if we can procure a sufficient number of arms for the *Indians*, who are able and willing, as he says, to pay for them, though that is not material, they would soon make themselves their own masters, and drive all the *Spaniards* out of the country, or change conditions with them and make them the hewers of wood and drawers of water; and this I think they may do, if supplied with arms and all things necessary, *more easily than the Spaniards conquered them* [the italics are mine except the word Spaniards], for if once there was a considerable insurrection of the *Indians* about *Guatimalla* and that country, in which the *Mosquito* men may perhaps be persuaded to join with them, there would soon be an insurrection both in *Mexico* and *Peru*, of which the *Spanish* court has been very much afraid, especially in *Peru* and *Chili*, where it is not improbable but the *Creole Spaniards* would soon join with them and set up a king of their own.

Again on the 20th of the same month, and still again on the 7th of October following, he wrote to Admiral Vernon, reiterating these views in almost the same language. These letters, as well as that of Mr. Hodgson, expose the manner and the object of the British tampering with the Indians.

In 1743 these "schemes" had so far progressed that Governor Trelawney recommended that a company of troops should be kept at the Mosquito shore, and that some sort of government should be established there, and the governor encouraged emigration there, and tried to get permission from the government to grant lands, and thus induce settlement. But the board of trade did not approve of this.

On the 19th of July, 1744, notwithstanding the discouraging report of the board of trade as to the rights of Spain, an order passed the council detaching a certain number of troops from Jamaica for the Mosquito shore, and providing for the erection of forts and the establishment of a government. In February, 1748, there was another order in council for sending a supply of ordnance to the new settlement on the Mosquito shore to the amount of £1,528 13*s.* 7*d.*

The fort at Black River was completed in 1747, so that Governor Trelawney was confident that should the Spaniards make a descent upon Mosquito shore, as was expected in the summer of 1748, it "would be able not only to defend itself, but to annoy the enemy."

During all this time (*i. e.*, from 1739 to the peace of Aix la Chapelle) I do not learn that the Spaniards made any direct attempt to dislodge the English from the Mosquito shore, except by an expedition from Nicaragua in 1747, which was a failure. The reason was they were busily engaged in more important places.

Matters were not changed by this peace. The English gained no new rights. They, nevertheless, determined to maintain their settle-

ment, and in October, 1749, the king appointed Captain Hodgson "to regulate and superintend the settlement on the Mosquito shore, which has been subsisting several years under the protection of our friends and allies, the Mosquito Indians." Captain Hodgson was to put himself under the direction of the governor of Jamaica, and to correspond with him. One cannot but admire the facility with which the relation of the Indians shifts from protectors to protected to suit the exigencies of the case.

In 1750 and 1751 the Spanish authorities remonstrated against these proceedings, asserted their rights, and threatened an expulsion of the English. Governor Trelawney, alarmed at the aspect of affairs, sent Hodgson an artful set of instructions for his conduct towards the Indians, which were to be shown to the President of Guatemala, to cause him to believe that the object of the English in keeping a superintendent among the Indians was to restrain them in their hostilities against the Spaniards; but upon their being presented to him he protested against the English interference, and proposed sending a Spanish agent or governor among the Indians. In reply, Hodgson wrote to him on the 3d of December, 1750, that he was already there as a superintendent, appointed by the governor of Jamaica to protect the Spaniards, as they could not protect themselves, and asserted that the Indians were free, never having been conquered by Spain.

In 1757 an attack by the Spaniards was apprehended at the shore, but only a missionary was sent among the Indians, named Juan Joseph Solis de Meranda, who reported that hostilities would not be commenced if he were allowed to remain among the Indians. This was at first granted; but the English, soon perceiving the influence he was gaining over the natives, to their great prejudice, arrested him under the pretense of his being an impostor, and sent him to Jamaica.

It now came to the knowledge of the governor of Jamaica that the Spaniards were making preparations for invading the Mosquito shore and driving the English from it. The settlers became alarmed and demanded that the detachment of soldiers should be withdrawn. The governor, on his part, proposed that the fort should be demolished rather than give umbrage to the Spaniards.

In 1752 Governor Knowles succeeded Governor Trelawney. He took a different view of the rights of the Mosquito Indians, restored Father Solis, and seemed determined to expose these transactions. He entered into a correspondence with the governor of Guatemala, and proposed a cessation of hostilities till he could hear from England. On the 26th of March, 1753, he wrote to the secretary of state that the settlement on Mosquito shore was "a job"; that if Captain Hodgson was not checked or recalled he "would involve the nation in difficulties"; that the Indians were so perplexed they "did not know which part to take"; and that he should advise withdrawing the troops unless the ministry intended to maintain the right to the territories, which he thought was not worth contending about.

During Governor Knowles's administration the condition of things improved, but he was not allowed to remain long. On his departure they fell back into the old channel, the English covertly acting the part of aggressors, the Spaniards resisting by protest and by force, until the treaty of Paris in 1673; except that in 1759 the Indians took up arms against the English, being discontented with their treatment of them and disgusted with the course of Captain Hodgson, and except also that this latter year was signalized by a communication from the board of trade ignoring the existence of any British settlement on the Mos-

quito shore, and declining, therefore, to entertain complaints against officers of the crown for acts done there.

The treaty of Paris assumes to define the respective rights of the parties in Central America. By Article XVII it is provided that "His Britannic Majesty shall cause to be demolished all fortifications which his subjects shall have erected in the Bay of Honduras, *and other places of the territory of Spain in that part of the world*, &c., and then the right is given to the English to cut logwood on the "Spanish coasts and territories." In accordance with this provision, all the British fortifications in Mosquito were demolished and the troops removed. But the settlers remained both there and in Honduras for the purpose of cutting and carrying away logwood, and marked their residence by repeated aggressions, similar to those already described, which I can give you in detail if you desire it. In 1783, at the close of the contests which accompanied the American Revolution, it was found necessary to define more particularly the rights of the English cutters, which is accordingly done by the sixth article of the treaty of Versailles, where it is provided that, "the intention of the two high contracting parties being to prevent as much as possible all the causes of complaint and misunderstanding heretofore occasioned by the cutting of wood for dyeing, or logwood, and several English settlements having been formed and extended under that pretense upon the Spanish continent, it is expressly agreed that His Britannic Majesty's subjects shall have the right of cutting," &c. (defining the limits about the Belize within which the right might be exercised), "and His Catholic Majesty assures to them the enjoyment of all that is expressed within the present article, *provided that these stipulations shall not be considered as derogating in any wise from his rights of sovereignty.*" And then it was provided that within eighteen months from the ratification the English should wholly retire from the Spanish continent and islands to the space allotted to them. This the English were understood at the time to have received as a compensation for abandoning Mosquito.

It is now claimed by Great Britain that before the conclusion of this treaty Mosquito had become an independent nation, and therefore was not embraced within its provisions. The argument upon which this is founded involves the consideration of the English title.

Starting from the position that the Indians had never been conquered, and therefore were not within Spanish jurisdiction (the fallacy of which I have already shown), all English writers rely on three, and only three, circumstances to establish the Mosquito protectorate, all of which are stated by Lord Palmerston in his note to Mr. Castellon of July 16, 1849: 1st. A submission by the Mosquito King to the governor of Jamaica on behalf of the King of England in 1687, founded on an alleged prior submission between 1645 and 1660. 2d. A convention between the governor of Jamaica and the King of the Mosquitos, concluded June 25, 1720. 3d. Certain reports and resolutions made in 1774 in the house of assembly of Jamaica.

To all this I might reply that the Mosquitos could not of themselves change their political connection; that, not being an independent nation, all acts done by them as such are void; that the demolition of fortifications shows England's construction of the treaty of Paris; and that the treaty of Versailles uses the broad language of the "*Spanish continent*," and affirms Spanish sovereignty. Without dwelling on these apparent considerations, I turn to the authorities relied upon for these positions.

And as to the first, I find that all writers refer for proof to an account of the matter given by Sir Hans Sloane, who was in Jamaica at the time

of the alleged submission to the Duke of Albemarle, the governor, and was his family physician, and of course in a position to know all about it. The authority most often cited is a memoir by Bryan Edwards, entitled "Some account of the British Settlements on the Mosquito Shore, drawn up for the use of Government in 1773." The history of this memoir is a little curious. It purports to have been drawn up for the use of government in 1773. It was printed anonymously, and was in 1776 "laid before Parliament" with the case of the Morning Star, to which I shall soon allude. The treaties of 1783 and 1786 having been concluded, the subject dropped. Twenty years afterwards, Mr. Edwards published his "History of the West Indies," in one of the foot-notes to which he states that *the settlement in Mosquito having been surrendered to Spain by the treaty of* 1786, it did not come within the plan of his work to treat of them, but referred all curious on this subject to this memorial. In 1819, in the fifth edition of his history (the first published after his death), this memorial was for the first time printed with the history, and under his name. It is now reproduced by the Foreign Office in the "correspondence," &c., on this subject, submitted to Parliament in 1848. That you may see how history has been perverted, I give you in parallel columns what Sir Hans Sloane really did say (copied from his printed history) and what Mr. Edwards represents him as saying:

SIR HANS SLOANE.

One King Jeremy came from the *Mosquitos* (an *Indian* People near the Provinces of *Nicaragua*, *Honduras*, and *Costa Rica*). He pretended to be a king there, and came from the others of his country, to beg of the Duke of *Albemarle*, governor of Jamaica, his *Protection*, and that he would send a Governor thither with a power to war on the *Spaniards* and Pirats. This he alleged to be due to his country from the Crown of *England*, who had in the reign of King *Charles* I submitted itself to him. The Duke of *Albemarle* did nothing in this matter, being afraid it might be a trick of some people to set up a Government for Bucaniers or Pirats. This *King Jeremy*, in coming to Town, asking many questions about the Island, and not receiving as he thought, a satisfactory account, he pulled off his *European* cloaths his friends had put on, and climb'd to the top of a tree to take a view of the country.

The memorial and substance of what he, and the people with him, represented to the Duke of *Albemarle*, was, That in the reign of King *Charles* I of ever Blessed memory, the Earl of Warwick (by virtue of letters of reprisal granted by his said majesty for damages received from the Subjects of his Catholic majesty) did possess himself of several islands in the West *Indies*, particularly that of *Providence* (since called by the *Spaniards St. Catalina*) which is situate in 13 deg. 10 m. N. Lat., lying East from *Cape Gratios de Dios* (vulgarly known by the name of the *Muskitos*) between Thirty and Forty leagues: which put the said Earl upon trying all ways and means of future correspondence with the natives of the said Cape, and neigh-

MR. EDWARDS.

The memorial and substance [says Sir Hans] of what he (the Mosquito King) and the people with him represented to the Duke of Albemarle was that in the reign of Charles I. the Earl of Warwick, by virtue of letters of reprisal, possessed himself of several islands in the West Indies, particularly that of Providence (since called by the Spaniards St. Catalina), which is situated 13° 10 m. N. lat., lying east from Cape Gracios a Dios (vulgarly known by the name of the Mosquitos) between thirty and forty leagues, which put the said Earl upon all ways and means of future correspondence with the natives of the said cape and neighboring country: and in some little time he was so successful as to gain that point,

boring country, and in some little time was so successful as to gain that Point, and further prevailed with them so far, as to persuade them to send home the King's son, leaving one of his People as Hostage for him, which was Col. Morris, now living at New York. The *Indian* Prince going home with the said Earl, staid in *England* three years, in which time the *Indian King* died, and the said natives having in that time had intercourse of Friendship and Commerce with those of *Providence* were soon made sensible of the grandeur of his Majesty of *Great Britain* and how necessary his Protection was to them. Upon the return of the said *Indian* Prince, they persuaded him to resign up his authority and power over them, and (with them) unanimously declare themselves the subjects of his said Majesty of Great Britain, in which opinion they have ever since persisted, and do own no other Supreme command over them.

and prevailed with them so far as to persuade them to send home the King's son, leaving one of his people as a hostage for him, which was Col. Morris, now living in New York. The Indian prince, going home with the said Earl, staid in England three years, in which time the Indian king died, and the natives, having in that time intercourse and commerce with those of Providence, were soon made sensible of the grandeur of his Majesty of Great Britain, and how necessary his protection was to them. Upon the return of the said Indian Prince, they persuaded him to resign up his authority and power over them, and with them unanimously declare themselves the subjects of his said Majesty of Great Britain: in which opinion [continues Sir Hans] they have ever since persisted, and do own no other supreme command over them.

I am sure you will agree with me that a worse perversion of history than this can scarcely be found elsewhere. The original authority, when produced, states expressly that the Duke of Albemarle did nothing in the matter. Mr. Edwards suppresses the fact that Lord Warwick's expedition was hostile to Spain; and the opinion attributed to Sir Hans at the close of the extract is found to be not his, but the language of the memorial.

But I am able to go a step further in the history of this curious title, and show the equivalent which the Indian Esau received for his birthright. In a pamphlet first published in 1699 (eight years before the publication of Sir Hans Sloane), and afterwards republished in the sixth volume of Churchill's Voyages, containing an account of the Mosquito shore from a very intelligent person, evidently well acquainted from observation, is the following passage:

He [the King] says that his father, *Oldman*, King of the Mosquito men, was carried over to England soon after the conquest of Jamaica, and there received from his brother King a crown and commission, which the present *Old Jeremy* still keeps safely by him, *which is but a cocked hat, and a ridiculous piece of writing that he should kindly use and relieve such struggling Englishmen as should choose to come that way with plantains, fish, and turtle, &c., &c.*

The words that I have italicised in the latter part of this extract need no comment.

As to the second fact now alleged, I have only to say that the "convention" is published in the Mosquito correspondence submitted to Parliament in 1848; and so far from proving any sovereignty in the Indians, shows the contrary. It is neither treaty nor convention. It is a *contract* between King Jeremy on the one side, signed with "his mark," and Governor Lawes on the other, *sealed with the* PRIVATE *seals of both parties*, by which the King contracts to furnish fifty men to hunt negroes, and the governor to pay for them and give them "rum" enough for the voyage home; very similar to the contract made subsequently with the Spanish hunters of Cuba for the employment of bloodhounds for the same purpose. This is not the mode in which high contracting parties usually deal with each other. Any argument deduced from it is founded in an ignorance of the distinction between a sovereignty in the soil and a dominion over the persons of the savages composing the tribe.

As to the third fact, without stopping to dwell on its *ex-parte* character, I have reason to think that the move was made in Jamaica at the instance, among others, of this Mr. Edwards, who drew up, to further it, the memorial above alluded to. To show how little the government at home entered into it, in 1776 a vessel called the Morning Star, with certain Indians on board, who had been to England to aid in putting down the practice of selling the Indians into slavery, was seized by the Spanish Guarda Costas on its return to Mosquito. The owners brought the subject before Parliament, presenting with their petition Mr. Edwards' memorial. After a long debate, in which it was asserted that the seizure was justifiable, as the treaty had been violated, Parliament refused to entertain the subject.

I have now examined the only evidence adduced in support of the English claim to a protectorate, and, unless I deceive myself, it dwindles into insignificance. I now resume the historical thread.

The English settlers were lax in conforming to the provisions of the treaty of 1783, the territory allotted to them being found to be too small, and the eighteen months passed away without their removal. Spain began to complain of this infraction, and the result was the treaty of 1786, which, besides, enlarging the territory to be occupied by the English, and making various regulations about it, contains the following provisions:

I. His Britannic Majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, &c.

XI. * * * In this view His Britannic Majesty engages to give the most positive orders for the evacuation of the country above mentioned by all his subjects, of whatever denomination; but if, contrary to such declaration, there should still remain any persons so daring as to presume, by retiring into the interior of the country, to endeavor to obstruct the entire evacuation already agreed upon, His Britannic Majesty, so far from affording them the least succor, or even protection, will disavow them in the most solemn manner, as he will equally do those who may hereafter attempt to settle upon *the territory belonging to the Spanish dominion.*

XIV. His Catholic Majesty, prompted solely by motives of humanity, promises to the King of England that he will not exercise any act of severity against the Mosquitos inhabiting in part the countries which are to be evacuated by virtue of the present convention on account of the connections which may have subsisted between the said Indians and the English. * * *

This was looked upon as an abandonment by England. It was so avowed in Parliament in a debate on a motion to impeach the ministry. Bryan Edwards admits it in the foot-note cited above. The Mosquito settlers themselves considered it so, and put in a claim to Parliament for damages, which was allowed. Extracts from their statement of the grounds of their claim have found their way into the appendix to the Mosquito correspondence of 1848, under the title of "Extracts from McGregor's Commercial Tariffs, Part XVII."

Still later, in the Quarterly Review for October, 1822, article VIII, in a review of a work on Mosquito Shore by one Captain Strangeway, is the following strong language. After saying that—

The whole of the Mosquito Shore and Honduras and the town of Poyais have for many centuries belonged to Spain, and have been considered as constituent portions of the kingdom of Mexico, not one foot of which was ever held by the English, except occasionally during a war, by the buccaneers, or more recently by the logwood cutters;

and reviewing the treaties of 1783 and 1786, the writer says:

Nothing can more clearly establish the sole right of Spain to these territories than the treaty and convention above mentioned. We never had any business there. The simple fact is that the Mosquito Indians have always borne an inveterate dislike to the Spaniards. The Duke of Albemarle, when governor of Jamaica, fostered that dislike, and invested one of the Indians with a commission as chief of the Mosquitos, under the protection of England; a foolish ceremony, which was exercised long after

by his successor, just as we now make King Toms and King Jacks among the negroes of Western Africa; but, if treaties are to be considered as at all binding, it is quite clear that we have not the right, nor even the permission of residence on the Mosquito Shore, and that we cut logwood and mahogany on the shores of Honduras Bay only by sufferance.

It is worthy of remark that in a reply to the Review, published in 1823, is the admission that "this territory belongs to Spain."

* * * * * * *

I have, &c.,

ABBOTT LAWRENCE.

24.—*Clayton-Bulwer treaty of April* 19, 1850.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific Oceans by the way of the river San Juan de Nicaragua and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's most honorable privy council, knight commander of the most honorable Order of the Bath, and envoy extraordinary and minister plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICLE I.

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from

blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise with any state, states, or governments, possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such states or governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE V.

The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both governments, or either government, if both governments, or either government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE VI.

The contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other states may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise

agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree, that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the states or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any state through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall moreover have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the

parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other state which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof, we, the respective plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done at Washington, the nineteenth day of April, anno Domini one thousand eight hundred and fifty.

JOHN M. CLAYTON. [L. S.]
HENRY LYTTON BULWER. [L.S.]

25.—*Sir H. L. Bulwer to Lord Palmerston.*

[Extract.]

WASHINGTON, *April* 28, 1850. (Received May 14.)

In my previous dispatch of this day I have informed your lordship of my having concluded a treaty with Mr. Clayton respecting the construction of a ship communication between the two oceans of the Atlantic and Pacific, and I have there stated to your lordship that there are some slight differences between the original project transmitted home on the 3d of February and the treaty now concluded.

I have thought it better to explain the nature of these changes, and my reasons for adopting them, in a separate dispatch; and I shall do so, rather according to the manner and time in which they were made, than according to the place in the convention in which they occur.

The first, therefore, I shall refer to is in Article VI, to which are added the words:

And should any differences arise as to right or property over the territory through which the said canal shall pass between the states or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of Great Britain and the United States will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

This addition, in reconsidering the matter, was deemed, both by myself and Mr. Clayton, an advantage to the treaty, and a sort of guarantee against future unfriendly disputes between the two governments as to the subject referred to.

The second addition agreed to is in Article VII, to which has been added:

And if any persons or company should already have, with any state through which the proposed ship-canal may pass, a contract for the construction of such a canal as that specified in the convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object; and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed, that such per-

sons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Governments of Great Britain and the United States, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking, it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of Great Britain and the United States shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

I should here state to your lordship that, when the treaty was placed under the notice of the chairman of the Committee on Foreign Relations in the Senate, a gentleman of great weight and of the more importance since he belongs to the dominant party in the chamber of which he is a member, considered that it would only be fair that the two governments should give an open and avowed preference by name to an American company which had first conceived and taken steps to carry out the proposed undertaking. This I objected to; but I deemed there could be no objection to giving to any company, under certain fair conditions such as are specified, the preference that was sought, although those conditions applied to a company that was American. In this manner a sort of compromise was effected.

The third alteration adopted is in Article VIII, the whole of which article is remodelled.

This alteration, I must say, was the effect of the joint opinion of Mr. Clayton and myself, both thinking that the article, as amended, was better and more clear, referring especially to two lines of communication which seem the most likely to be adopted, and securing thereby a considerable support to the convention in general, many persons being interested in the Panama and Tehuantepec projects.

The only other change which it is worth while remarking upon occurs the first in the body of the treaty, but was the last mooted or adopted. Your lordship will perceive it by casting your eye over Article I, in which a passage is inserted between the words "Central America," which close the second line in the page, down to "nor will Great Britain or the United States take advantage of any," &c., which occurs in the third line from the bottom of the said page, some few words having been left out to admit of the aforesaid passage. The manner in which this change was effected was as follows:

It struck me that the declaration or note mentioned by your lordship bound our government as to its protection over the Mosquitos, but did not bind the United States Government as to its protection over such other states, even Nicaragua, as it might hereafter form an especial alliance with. Moreover, the pledge that we would not do covertly what we had declared we would not do directly, seemed to me a pledge that it would be more suitable and becoming that both parties should take than that one alone should take.

With these views instead of presenting the note, I embodied in the treaty the substance of the declaration given by your lordship to Mr. Lawrence, constructing that declaration so as to apply to any government or people we do or may protect, and also to any government or people that the United States Government do or may protect. Some discussion took place on this matter, but finally it was so arranged.

As the case now stands it is clearly understood that Her Majesty's Government holds by its own opinions already expressed as to Mosquito, and that the United States does not depart from its opinions also already expressed as to the same subject; but the main question of the canal

being settled on an amicable basis, and the future relations of the United States and Great Britain being regulated in all other parts of Central America, the discussion of this difference, which has lost its great practical importance, is avoided in an arrangement meant to be as much as possible of a perfectly friendly character.

I need not say that, should your lordship wish to make any further statement as to the views of Her Majesty's Government with respect to the protectorate of Mosquito, that statement can still be made; nothing in the present convention is affirmed thereupon, but nothing is abandoned.

I trust that after this statement your lordship will approve of the course I have pursued.

There are various small and verbal differences between the original project and treaty which I have not enumerated, because they leave the general sense the same, and have only been adopted to express that sense more clearly. The word "fortify" is inserted between "occupy and colonize" in the second line from the bottom of the page in Article I, but this word had been used in your lordship's note to Mr. Lawrence, and only imposes in that place an obligation which had already been agreed to and stated elsewhere. The word "blockade" is inserted before the words "detention or capture" in Article II, at the request of several influential persons, but only signifies what detention and capture had already expressed.

H. L. BULWER.

Viscount PALMERSTON, G. C. B.

26.—*Declaration made by Sir Henry Bulwer at the Department of State, June 29, 1850, prior to the exchange of the ratifications of the Clayton-Bulwer treaty.*

In proceeding to the exchange of the ratifications of the convention, signed at Washington on the 19th of April, 1850, between Her Britannic Majesty and the United States of America, relative to the establishment of a communication by ship-canal between the Atlantic and Pacific Oceans:

The undersigned, Her Britannic Majesty's plenipotentiary, has received Her Majesty's instructions to declare that Her Majesty does not understand the engagements of that convention to apply to Her Majesty's settlement at Honduras, or to its dependencies.

Her Majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned.

Done at Washington, the 29th day of June, 1850.

H. L. BULWER.

27.—*Memorandum touching Sir Henry Bulwer's declaration filed by Mr. Clayton in the Department of State at Washington, July 5, 1850.*

The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply I wrote him my note of the 4th of July, acknowledging that I understood British Honduras was not embraced in the treaty of the 19th day of April last, but at the same time carefully declining to affirm or deny the British title in their settlement

or its alleged dependencies. After signing my note last night I delivered it to Sir Henry, and we immediately proceeded, without any further or other action, to exchange the ratifications of said treaty. [* The blank in the declaration was never filled up.] The consent of the Senate to the declaration was not required and the treaty was ratified as it stood when it was made.

JOHN M. CLAYTON.

N. B.—The rights of no central American state have been compromised by the treaty or by any part of the negotiations.

28.—*Charter granted by the State of Nicaragua to the Accessory Transit Company.*

The supreme government of the Republic of Nicaragua, fully authorized by legislative decree of the 13th instant, have agreed, by means of their commissioners, Don Fruto Chamorro and Don Mateo Mayorga, with the sole object of facilitating the construction of the maritime canal, and in accordance with the desires expressed by the company of the said canal, represented by Joseph L. White, esq., to divide and separate from the contract of the 22d of September, 1849, relating to the construction of the said canal through the Isthmus of Nicaragua, the part therein relating to the navigation by steam of the waters of Nicaragua, and to that effect they have agreed to the following convention:

ARTICLE I.

The Republic of Nicaragua authorizes the American, Atlantic, and Pacific Ship-Canal Company to divide and separate from the powers, privileges, and rights granted by the treaty, signed by said government on the 22d September, 1849, and amended the 11th of April, 1850, all the powers, privileges, rights, and duties designated in the Articles 6, 14, 20, 21, 22, 23, 30, 32, 33, 34, and all other articles relating to the navigation of the waters of Nicaragua, not essential to the construction or use of the said ship-canal.

ARTICLE II.

Said company is equally authorized to form another company, distinct and separate, comprised of the same members as the former. This new company shall enjoy the powers and be subject to the duties inserted in the articles aforesaid, provided they are not in contradiction to the rights granted, and to the duties imposed upon the Ship-Canal Company.

ARTICLE III.

The company newly created shall proceed to execute and accomplish the objects of its incorporation, as set forth in the said articles above alluded to, and shall have a right to, and shall have the protection of the Government of Nicaragua, within the same limits and to the same

* The words in brackets appear in the original in ink, but are marked out by lead-pencil marks across their face. When they were so marked is not known. The blanks in the original declaration are filled up with "29th" and "June," written with a different kind of ink from the original.

extent which have been stipulated in the primary charter of the 22d September, 1849, and its amendments of the 11th of April, 1850, relating to the construction of a ship-canal. All the acts and things which may constitute an infraction of the rights of the Ship-Canal Company, shall equally be considered an infraction of the rights of the company newly created in all that refers to the objects of its institutions.

ARTICLE IV.

The new company, when organized, shall be designated by the name of "The Accessory Transit Company." They shall be a body corporate and politic, with perpetual succession during the time of their legal existence, and they shall have full powers to use their rights and privileges and accomplish fully the duties designated in the present convention and in the aforesaid articles in such manner as may seem to them most convenient and proper, provided that it be not in contradiction to the privileges and duties inserted in the primary charter of the 22d of September, 1849, and amendments thereto of the 11th of April, 1850.

ARTICLE V.

Said company, forming a body corporate and politic, may elect and remove their officers and agents according as they may deem it for their interest; they shall have the faculty of passing and adopting such laws and regulations as they may consider conducive to the better administration of their affairs, in view of securing the enjoyment of their privileges, and for the entire fulfillment of their obligations.

They may fix the amount and value of stock to be issued, and increase the same if necessary; provide the mode of transferring the same, and do all acts and things which are proper and necessary to carry out strictly the purposes of their institution, and according to the above-mentioned articles.

ARTICLE VI.

The company, forming a body corporate and politic, shall elect a board of directors and a president, and shall fix the number of the members thereof, the majority of whom shall determine and adopt all resolutions necessary to carrying out the purposes expressed in the preceding articles, and such others as refer to the right of transit and are not inconsistent with the right of constructing and using the canal. The company may adopt a common seal, and change it if necessary. They may sue and be sued before the tribunals of the state as if they were a natural person.

ARTICLE VII.

All the property, choses in action, things, rights, credits, and effects of the new company shall be free from all charges and duties whatsoever during the existence of the grant, within the limits expressed in the primary charter of the 22d September, 1849, and amendments thereto of the 11th of April, 1850, conceded for the construction of a ship-canal, and for other purposes.

ARTICLE VIII.

This convention, and all the rights and privileges secured by it to the company and conferred by it, shall cease whenever the primary charter

of the 22d of September, 1849, shall expire by its own limitation, or shall be otherwise forfeited or annulled.

ARTICLE IX.

It is understood and agreed by and between the contracting parties that no expression used in this convention can be or shall be construed as relieving either party from the performance of all the obligations imposed upon them respectively by the charter of the 22d of September, 1849, and amendments thereto of the 11th of April, 1850.

Done and signed in duplicate in the city of Granada, of Nicaragua, the fourteenth day of August, one thousand eight hundred and fifty-one.

[SEAL.] FRUTO CHAMORRO,
MATEO MAYORGA,
J. L. WHITE,
Counsel to and Representative of the American and Atlantic and Pacific Ship-Canal Company.

29.—*Mr. Lawrence to Mr. Webster.*

[Extract.]

164.] LEGATION OF THE UNITED STATES,
London, February 27, 1852. (Received March 13.)

SIR: * * * The report of Colonel Childs is looked for with deep interest, and there does not appear any difficulty in associating persons of both countries able to accomplish so great a work whenever a satisfactory survey shall have been completed.

I have, &c.,

ABBOTT LAWRENCE.

30.—*Mr. Lawrence to Mr. Webster.*

[Extract.]

168.] LEGATION OF THE UNITED STATES,
London, March 26, 1852. (Received April 9.)

SIR: Since my dispatch, No. 164, relative to the proposed survey for a route for a canal between the Atlantic and Pacific Oceans, I have heard nothing further from Messrs. Vanderbilt and White, nor have I received the report of Colonel Childs. * * *

As there can probably be but one canal, as that one should be constructed as well for the wants of the future as those of the present, and as it will doubtless absorb in its construction as much of the private capital of both countries as mercantile persons will desire to invest in it, I am anxious that a preliminary survey like the present should be made in such a way as to insure its completion and excite jealousy in neither country.

It is equally the interest of the United States and of Great Britain to connect the two oceans at the earliest practicable period by the best route, without reference to private interests, even though at an aug-

mented cost of a few millions of dollars. The canal will be remunerative at any rate. But it is understood that neither government will be interested in its construction beyond the guarantee of the treaty of 1850. Yet each may assist by its advice and encouragement. The present British cabinet, following the example of the last, is, I think, inclined to give to private individuals embarking in this scheme, the aid of its countenance. I respectfully suggest that the same course may be pursued at Washington with great benefit to the country by entering into communication with capitalists and others who might be disposed to aid in completing this most important work.

I have, &c.,

ABBOTT LAWRENCE.

31.—*Arrangement for settling Central American affairs agreed upon between Mr. Crampton and Mr. Webster.*

WASHINGTON, *April* 30, 1852.

The undersigned, Daniel Webster, Secretary of State of the United States, and John Fiennes Crampton, Envoy Extraordinary and Minister Plenipotentiary of her Britannic Majesty, having taken into consideration the state of the relations between the Republics of Costa Rica and Nicaragua in respect to the boundaries between those republics, and between the Republic of Nicaragua and the territory claimed by the Mosquito Indians; and being mutually desirous that all pending differences respecting those questions should be amicably, honorably, and definitely adjusted, do in behalf of their respective governments earnestly recommend to the respective governments of the Republics of Nicaragua and Costa Rica an accommodation and settlement of these differences upon the following basis:

ARTICLE I.

The Mosquito Indians may reserve to themselves out of the territory heretofore claimed or occupied by them on the eastern coast of Central America, a district of country, and the jurisdiction over the same to be bounded as follows, namely: beginning on the shore of the Caribbean Sea at the mouth of the river Rama, which is (according to Bailey's map of Central America, published in London in November, 1850) in 11° 34′ north latitude and 83° 46′ west longitude; running thence due west to the meridian 84° 30′ west longitude from Greenwich; thence due north on said meridian to the river Segovia, Fantasma, or Wanx; thence down said river to the Caribbean Sea; thence southerly along the shore of said sea to the place of beginning; and all the rest and remainder of the territory and lands lying southerly or westerly of said reservation heretofore occupied or claimed by the said Mosquitos, including Greytown, they shall relinquish and cede to the Republic of Nicaragua, together with all jurisdiction over the same in consideration of the net receipts for a period of three years from all duties levied and collected at Greytown at the rate of 10 per cent. ad valorem on all goods imported into the State.

The period of three years to commence on the day when Nicaragua shall formally take possession of and enter into the occupancy of said town. And the said net receipts shall be payable quarterly, or every

three months, to such agent or agents as may be appointed to receive them.

And the said Republic of Nicaragua hereby agrees not in any way to molest or interfere with the Mosquito Indians within the territory herein reserved by them.

It is also understood that any grants of land which may have been made by the said Mosquitos since the 1st of January, 1848, in that part of the Mosquito territory hereby ceded to Nicaragua, shall not be disturbed, provided the said grants shall not interfere with other legal grants made previously to that date by Spain, by the Central American Confederation, or by Nicaragua, or with the privileges or operations of the Atlantic Ship-Canal Company, or Accessory Transit Company, and shall not include territory desired by the Nicaraguan Government for forts, arsenals, or other public buildings.

II.

It is also understood that nothing in the preceding article shall preclude the conclusion of such voluntary compact and arrangements between the State of Nicaragua and the Mosquito Indians, by which the latter may be definitively incorporated and united with the State of Nicaragua, it being stipulated that in such case the said Mosquito Indians shall enjoy the same rights and be liable to the same duties as the other citizens of the said State of Nicaragua. The municipal and public authority in the town of Greytown shall be held and exercised by the Government of Nicaragua, but said government shall levy no duties of tonnage nor any duties of import on goods imported into Greytown, intended for transit across the isthmus or for consumption in any other state than that of Nicaragua, except such tonnage duty as may be necessary for the preservation of the port and harbor, and the erection and maintenance of necessary light-houses and beacons, and no duty for this or similar purposes shall exceed say 12 cents per ton on each vessel.

III.

The boundary between the Republics of Nicaragua and Costa Rica shall begin on the south bank of the Colorado at its confluence with the sea at high-water mark on said river; thence along said south bank, also at high-water mark, to the confluence of the Colorado with the river San Juan; thence, at high-water mark, along the south bank of the San Juan to its source on Lake Nicaragua; thence, at high-water mark, along the south and west shore of that lake to the point nearest the mouth of the river La Flor; thence by a direct line drawn from that point to the mouth of the said river in the Pacific Ocean. It is understood, however, that Costa Rica retains the right, in common with Nicaragua, to navigate said rivers and lake by said vessels, barges, or vessels towed, but not by steam; but this right is by no means to interfere with the paramount right in Nicaragua or her grantors to appropriate the waters of said rivers and lake for a ship-canal from ocean to ocean, or from the Caribbean Sea to said lake.

It is also understood that the said company entitled "The American Atlantic and Pacific Ship-Canal Company" shall have the privilege of locating on the south bank of the St. John River four of the eight stations or sections of land referred to in the XXVIIth article of the amended charter of said company, as ratified by the Government of Nicaragua on the 11th of April, 1850. If, however, the said company

should desire to locate more than the said four sections on the south side of the San Juan, the Governments of Nicaragua and Costa Rica will amicably agree in regard to the terms of such location.

IV.

Neither the Government of Nicaragua nor the Government of Costa Rica should be at liberty to erect, or suffer to be erected, any wharf, wall, embankment, or other structure, or to do, or suffer to be done, any thing or act whatever, in the harbor of Greytown, in any part of the Colorado or San Juan Rivers, or on the shore of Lake Nicaragua, which shall obstruct the free operations of the ship-canal or transit company, or hinder the passage of their boats in, along, and through the said harbor of Greytown and rivers Colorado or San Juan. And if, after the proper survey of a route for a ship-canal between the two oceans, it shall be found that it would be preferable for that canal to pass in part along the southern bank of the river San Juan or the Colorado River, the Government of Costa Rica engages to grant any lands and to afford any facilities which may be necessary for the construction of the said canal.

V.

Whereas it is stipulated by Article II, of the convention between Great Britain and the United States of America, concluded at Washington on the 19th day of April, 1850, that vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempt from blockade, detention, or capture by either of the belligerents, and that that provision should extend to such a distance from the two ends of the said canal as might thereafter be found expedient to establish; now, for the purpose of establishing such distance within which the vessels of either of said nations shall be exempt from blockade, detention, or capture by either of the belligerents, it is hereby declared that it shall extend to all waters within the distance of twenty-five nautical miles from the termination of said canal on the Pacific and on the Atlantic coasts.

VI.

Whereas by Article VII of the said convention it was among other things stipulated that if any persons or company had already made with any state through which the ship-canal might pass, a contract for the construction of such a canal as that specified in said convention, to the stipulations of which neither of the contracting parties in that convention had any just cause to object; and the said persons or company had moreover made preparations and expended time, money, and trouble on the faith of such contract, it was thereby agreed that such persons or company should have a priority of claim over every other person or persons, or company, to the protection of the Governments of the United States and Great Britain, and should be allowed a year from the date of the exchange of ratifications of that convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if at the expiration of the aforesaid period, such persons or company should not be able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain should be free to afford their protection to any other persons or

company that should be prepared to commence and proceed with the construction of the canal in question. And whereas at the time of the signature of the said convention, a company styled the American Atlantic and Pacific Ship-Canal Company had with the Government of the Republic of Nicaragua a contract for constructing a ship-canal between the said oceans, but, for reasons deemed sufficient by the Governments of Great Britain and the United States, have not hitherto been able to comply with the stipulation which gave them a claim to the protection of the said governments; and whereas no other company has claimed such protection on the same conditions, it is therefore agreed that the further time of one year from the exchange of the ratifications of this convention shall be allowed to the said company to comply with the stipulation aforesaid.

VII.

And whereas by another charter (of April 11, 1850) to the American Atlantic and Pacific Ship-Canal Company, the State of Nicaragua, with a view to facilitate the construction of the canal, has authorized the said company to separate from their said contract of September 22, 1849, the part relating to the navigation of the waters of Nicaragua by steam, under the title of the Accessory Transit Company; and whereas the said Accessory Transit Company has been for some time past in full and successful operation, the Governments of Great Britain and the United States hereby engage to extend their protection to the said Accessory Transit Company in the same manner and to the same extent as by the aforesaid convention of April 19, 1850, and by this convention the said protection is extended to the Atlantic and Pacific Ship-Canal Company; but as the main object of the said convention between Great Britain and the United States of America was to provide for an interoceanic ship-canal between the Atlantic and Pacific, and as that object is still deemed paramount to every other mode of transit, the protection hereby extended to the Accessory Transit Company shall not be construed to interfere with the right to construct said canal by the company which has undertaken to construct the same, or, in case of their failure, by any other persons or company which may be authorized to construct the same; and every grant and privilege conferred upon said Accessory Transit Company shall be subject to the paramount right and privilege of any other persons or company to construct, maintain, and use such canal.

Finally, these propositions, so far as they respect the Governments of Nicaragua and Costa Rica, are advisory and recommendatory; and the immediate consideration of those governments to their consideration is earnestly invoked.

To insure a prompt decision, Mr. Wyke, consul-general of Her Britannic Majesty, clothed with full powers for that purpose, Mr. Kerr, chargé d'affaires of the United States to Nicaragua, and Mr. Walsh, appointed special agent of the United States to the Government of Costa Rica, are authorized to communicate the arrangement proposed to those governments respectively; and, unless the aforesaid Governments of Nicaragua and Costa Rica shall promptly, and without loss of time, concur in the general basis of this arrangement, and adopt proper measures for carrying it into effect, then the Governments of Great Britain and the United States will immediately, as between themselves, jointly adopt such measures as they shall deem advisable to carry into full execution the convention between those governments of April 19, 1850; and to ac-

complish the design therein contemplated, of an interoceanic communication by canal from the Atlantic to the Pacific Ocean by the way of the river San Juan and the Lake Nicaragua.

JOHN F. CRAMPTON.
DANL. WEBSTER.

32.—*Mr. Webster to Mr. Lawrence.*

[Extract.]

No. 77.] DEPARTMENT OF STATE,
Washington, May 14, 1852.

SIR: Your dispatches, to No. 176, inclusive, have been received.

On the 30th ultimo, as you may have been informed through another channel, Mr. Crampton and myself agreed upon and signed a proposition to Costa Rica and Nicaragua for the adjustment of their disputes upon the subject of boundary, and also for the adjustment of the controversy between Great Britain and Nicaragua in regard to the territory claimed by the Mosquito Indians. If this proposition should be accepted by those republics, a quadripartite treaty will probably be entered into by them, Great Britain, and the United States. A principal impediment to the commencement or successful progress of the ship-canal through Nicaragua will then have been romoved.

Considering that the United States and Great Britain have jointly agreed to protect such a canal, and in consequence of their possessions on the coast of the Pacific, and other obvious causes, have a similar interest in its success, it seems desirable that the capital required for its construction should be advanced by the citizens and subjects of both countries. If, however, English capitalists should not be disposed to invest their funds in the enterprise, the means for its construction can easily be obtained in this country whenever our citizens shall be satisfied of its practicability, and that it would yield a regular and fair profit. Convinced of the great importance of the work, the Government of the United States would always be disposed to aid in the prosecution thereof to the full extent of its constitutional power. It is not likely, however, that the canal company will need any such assistance from this government.

The practicability of the canal may now be considered as certain. The survey under Colonel Childs, whose high professional and personal character are probably known to you, was some time since completed. He recently visited this city, bringing with him maps, plans, and estimates for the work. By direction of the President these were laid before Colonels Abert and Turnbull, of the United States Topographical Engineers, for examination and report. The report of these officers has confirmed the accuracy of the estimates of Colonel Childs. No doubt is entertained that they will receive a similar confirmation from any military or civil engineers in England to whom they may be submitted.

* * * * * * *

I am, &c.,

DAN'L WEBSTER.

33.—*Mr. Lawrence to Mr. Webster.*

No. 188.] LEGATION OF THE UNITED STATES,
London, June 8, 1852. (Received June 26.)

SIR: I have the honor to acknowledge the reception of your dispatch, No. 77, of 14th of May.

I rejoice to learn that Mr. Crampton and yourself have agreed upon and signed a proposition to Costa Rica and Nicaragua for the adjustment of their disputes upon the subject of boundary, and also for the adjustment of the controversy between Great Britain and Nicaragua in regard to the territory claimed by the Mosquito Indians. I hope Nicaragua will accept the proposition, of which, however, I entertain some doubt.

I am not acquainted with the terms of the proposition, nor, indeed, do I deem them of great importance, so that they guarantee perfect safety against aggressions upon the rights of the several parties interested, and prevent collisions between the United States and Great Britain.

With respect to the construction of the canal, I have often expressed my anxious desire that all questions touching the Mosquito Indians and the disputes between Nicaragua and Costa Rica should be definitively settled, in order that the canal company might be organized and the work commenced. In December last, Messrs. Vanderbilt and White wrote to me and to several other persons in London that the report of Colonel Childs would be completed and sent here in February of this year. The report, however, did not arrive, nor do I know the cause of its being delayed. Messrs. Fox, Henderson & Co., after waiting several weeks for it, concluded to send out a corps of engineers on their own account to survey a route between Port Escoces and the Gulf of San Miguel (and perhaps other routes) for a canal. It was proposed to send a British and United States engineer to report upon their surveys, and Lord Malmesbury appointed one on the part of the British Government, who was on the point of embarking for Washington, when, from some cause which his lordship said he would explain, it was decided not to send an engineer. I believe I have already communicated these facts to you. I hope the report of Colonel Childs may soon arrive, as the abundance of money is such as to make the present time favorable for the organization of a company and placing the stock in the hands of capitalists.

I have great confidence in the skill, judgment, and integrity of Colonel Childs; and the fact that Colonels Abert and Turnbull have verified his report will give confidence at home and abroad. I hope the report may be submitted to an examination here in order that a like feeling may be produced and strengthened in this government and people.

There is an understanding among those who have taken a deep interest in this work, that one-half of the stock should be offered to capitalists here, and the remainder to capitalists in the United States, and in case either party declined or did not subscribe for their full amount the other party should have a right to that portion remaining unsubscribed, or the whole if there were no subscriptions. The details, however, of organization must all be left to the proprietors.

I repeat the desire that Colonel Childs' report (and the colonel himself) may be here at an early day, and have, &c.

ABBOTT LAWRENCE.

34.—*Mr. Lawrence to Mr. Webster.*

[Extract.]

No. 194.] LEGATION OF THE UNITED STATES,
London, July 2, 1852. (Received July 16.)

SIR: * * * I have the honor to transmit also a copy of a note from the Earl of Malmesbury acquainting me with the appointment on the part of Her Majesty's Government of two engineers to examine the report of Colonel Childs respecting the ship canal which it is proposed to construct through the territory of Nicaragua from the Atlantic to the Pacific Ocean, together with a copy of my reply thereto. Lieutenant-Colonel Aldrich and Mr. James Walker, the gentlemen appointed to this service, are eminent in their profession, and any opinion emanating from them will be received by the public with the fullest confidence in their ability and integrity.

* * * * * * *

I have, &c.,

ABBOTT LAWRENCE.

Earl of Malmesbury to Mr. Lawrence.

The Earl of Malmesbury presents his compliments to Mr. Lawrence, and with reference to his letter of the 16th instant, inclosing Colonel Childs' report respecting the ship-canal which it is proposed to construct through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, and suggesting the appointment of two competent engineers to examine that report, has the honor to inform Mr. Lawrence that Lieutenant-Colonel Aldrich, of the Royal Engineers, and Mr. James Walker, the eminent civil engineer, have been appointed by Her Majesty's Government to examine Colonel Childs' report.

Lord Malmesbury begs to add that he has requested the master general of the ordnance to direct Colonel Aldrich to place himself in immediate communication with Mr. Walker, and to proceed to the investigation with the least possible delay.

FOREIGN OFFICE, *June* 30, 1852.

Mr. Lawrence to Earl of Malmesbury.

Mr. Lawrence presents his compliments to the Earl of Malmesbury and begs to acknowledge the reception of his lordship's note of the 30th instant, acquainting Mr. Lawrence with the appointment of Lieutenant-Colonel Aldrich, of the Royal Engineers, and Mr. James Walker, the eminent civil engineer, to examine the report of Colonel Childs, respecting the ship-canal which it is proposed to construct through the territory of Nicaragua from the Atlantic to the Pacific Ocean.

Mr. Lawrence begs to assure the Earl of Malmesbury of his entire satisfaction at this intelligence, and to express his sense of his lordship's courtesy in expediting the investigation.

UNITED STATES LEGATION,
138 *Piccadilly, July* 2, 1852.

35.—*Proclamation of the organization of the British colony of the Bay Islands, July* 17, 1852.

PROCLAMATION.

OFFICE OF THE COLONIAL SECRETARY,
Belize, July 17, 1852.

This is to give notice that Her Most Gracious Majesty the Queen has been pleased to constitute and make the islands of Roatan, Bonacca,

Utilla, Barbarat, Helene, and Morat, to be a colony to be known and designated as "The Colony of the Bay Islands."

AUGUSTUS FREDERICK GORE,
Acting Colonial Secretary.

God save the Queen!

36.—*Mr. Lawrence to Mr. Webster.*

No. 198.] LEGATION OF THE UNITED STATES,
London, August 13, 1852. (Received August 27.)

SIR: I have the honor to inclose a further correspondence between Lord Malmesbury and myself relative to Colonel Childs' report upon the ship-canal between the Atlantic and Pacific Oceans by way of Lake Nicaragua. Lieutenant-Colonel Aldrich and Mr. Walker, the engineers appointed by Lord Malmesbury to examine the report made by Colonel Childs, have reported that the project in the line projected by Colonel Childs is practicable; that the survey made by him has every appearance of accuracy; that the works are generally sufficient for the purpose they are intended to answer; and that the estimates upon the present value of money are adequate. The British capitalists have the matter now under consideration. I have delayed sending you this correspondence, hoping to give you their decision with it.

I have, &c.,

ABBOTT LAWRENCE.

Lord Malmesbury to Mr. Lawrence.

Immediate.]

FOREIGN OFFICE, *July* 16, 1852.

SIR: In compliance with the suggestion contained in your letter of the 16th ultimo, that engineers possessing well-known skill and experience should be appointed on the part of Her Majesty's Government to examine the report of Colonel Childs on the ship-canal to be constructed through the Nicaraguan territory, from the Atlantic to the Pacific Ocean, that report having been already examined and approved by Colonels Abert and Turnbull, two distinguished officers of the Topographical Engineers of the United States, I have the honor to inform you that Lieutenant-Colonel Aldrich, of the Royal Engineers, and Mr. James Walker, an eminent civil engineer, were accordingly requested by me to perform that duty.

Those gentlemen readily assented to that request, and I have now the honor to transmit to you their report, accompanied by four inclosures upon the papers submitted to their inspection, being the documents which were inclosed in your letter of the 21st of June.

I have, &c.,

MALMESBURY.

Mr. Lawrence to Lord Malmesbury.

LEGATION OF THE UNITED STATES,
138 *Piccadilly, July* 17, 1852.

MY LORD: I have the honor to acknowledge the receipt of your lordship's letter of the 16th, inclosing the report of Lieutenant-Colonel Aldrich and Mr. James Walker upon Colonel Childs' report on the ship-canal to be constructed through the Nicaraguan territory, from the Atlantic to the Pacific Ocean, and I beg your lordship to accept my thanks for the great promptness with which you have complied with my request in this matter.

I have, &c.,

ABBOTT LAWRENCE.

[Extract.]

REPORT OF THE BRITISH ENGINEERS UPON THE REPORT OF COLONEL CHILDS.

From the foregoing premises and subject to our observations on particular works (especially as to Brito Harbour), *to which we beg to refer*, our opinion, with reference to the propositions contained in your letter to Mr. Walker, is—

1. That the project of a ship-canal from the Atlantic to the Pacific on a line projected by Colonel Childs is practicable, and would not be attended with engineering difficulties beyond what might be naturally expected in a work of this magnitude.

2. That the survey has every appearance of accuracy; that the details of specifications, working-drawings, &c., prepared under Colonel Childs' directions, by Mr. Fay, Mr. Fitzgerald, and others, have been got out with great care, and that Colonel Childs has impressed us with a conviction of perfect fairness and candor on his part.

3. That the works are generally sufficient for the purpose they are intended to answer.

4. That the estimates upon *the present value of money* are adequate, in a general way, so far as judgment can be formed of them from the documents produced and the explanations of Colonel Childs, which, as will be seen from his evidence, were particular and given in great detail.

We shall perhaps be considered as interpreting the word "*sufficiency*" in your instructions in a liberal sense, when we add, that to make the navigation 20 feet deep in place of 17 feet, and the locks 300 feet long in place of 250, and the canal 60 feet in place of 50 feet wide,* would, in our opinion, be rendering the navigation more efficient for the general purposes of trade by steam and sailing vessels. Colonel Childs (see his answers to questions 223 and 224) does not see any difficulty in doing this, excepting the expense, which would, we think, be unimportant when compared with the advantages.

The great additional expense would be in the deep cutting west of the lake, two or three miles of which might be left of the smaller width, if present saving be a great object. We find that the original instructions to Colonel Childs† directed the estimates and surveys to be made for a canal of sufficientdepth of water for vessels of the largest class; and if the junction of the Pacific with the Atlantic be worth doing at all, it is worth doing *well*.

JAMES WALKER,
Civil Engineer.
EDWARD ALDRICH,
Captain and Lieutenant-Colonel, Commander Royal Engineers, London District.

LONDON, *July* 16, 1852.

37.—*Mr. Marcy to Mr. Borland.*

[Extract.]

No. 8.] DEPARTMENT OF STATE,
Washington, December 30, 1853.

SIR: Your several dispatches, to No. 11, inclusive, have been received at this Department.

In relation to the Clayton and Bulwer treaty, about which so much is said in your dispatches, I have only to remark that this government considers it a subsisting contract, and feels bound to observe its stipulations so far as by fair construction they impose obligations upon it.

If Great Britain has failed, or shall fail, on her part to fulfill the obligations she has therein assumed, or if she attempts to evade them by a misconstruction of that instrument, the discussions that may arise on these subjects must necessarily take place between the parties to it. The views taken of that treaty by the United States, and your course in relation to it, pointed out in your first instructions, will be observed

*The remark may apply more particularly to the trade with Britain, for which vessels upwards of 300 feet in length are now building or proposed.

†See page 4, Colonel Childs' report.

until you receive notice of their modification. In these instructions you were furnished with the views of one of the contracting parties (Great Britain), but at the same time you were informed that the United States did not concur in them. In the negotiations at London, in regard to the affairs of Central America, the meaning of that instrument will come directly under discussion. So far as respects your mission, you will regard it as meaning what the American negotiator intended when he entered into it, and what the Senate must have understood it to mean when it was ratified, viz, that by it Great Britain came under engagements to the United States to recede from her asserted protectorate of the Mosquito Indians, and to cease to exercise dominion or control in any part of Central America. If she had any colonial possessions therein at the date of the treaty, she was bound to abandon them, and equally bound to abstain from colonial acquisitions in that region. In your official intercourse with the states of Central America, you will present this construction of the treaty as the one given to it by your government.

It is believed that Great Britain has a qualified right over a tract of country called the Belize, from which she is not ousted by this treaty, because no part of that tract, when restricted to its proper limits, is within the boundaries of Central America.

* * * * * * *

I am, &c.,

W. L. MARCY.

38.—*Statement of Mr. Buchanan for Lord Clarendon.*

[Extract.]

LEGATION OF THE UNITED STATES,
London, January 6, 1854.

Mr. Monroe, one of our wisest and most discreet Presidents, announced in a public message to Congress in December, 1823, that "the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered subjects for future colonization by any European powers." This declaration has since been known throughout the world as the "Monroe doctrine," and has received the public and official sanction of subsequent Presidents, as well as of a large majority of the American people. Whilst this doctrine will be maintained whenever, in the opinion of Congress, the peace and safety of the United States shall render this necessary, yet to have acted upon it in Central Amirica might have brought us into collision with Great Britain, an event always to be deprecated, and, if possible, avoided. We can do each other the most good, and the most harm, of any two nations in the world, and, therefore, it is our strong mutual interest as it ought to be our strong mutual desire, to remain the best friends. To settle these dangerous questions, both parties wisely resorted to friendly negotiations, which resulted in the convention of April, 1850. May this prove to be instrumental in finally adjusting all questions of difficulty between the parties in Central America, and in perpetuating their peace and friendship.

Surely the Mosquito Indians ought not to prove an obstacle to so appy a consummation.

* * * * * * *

JAMES BUCHANAN.

39.—*Statement of Lord Clarendon for Mr. Buchanan.*

[Extract.]

FOREIGN OFFICE, *May* 2, 1854.

* * * * * * *

It was never in the contemplation of Her Majesty's Government, nor in that of the Government of the United States, that the treaty of 1850 should interfere in any way with Her Majesty's settlement at Belize or its dependencies. It was not necessary that this should have been particularly stated, inasmuch as it is generally considered that the term "Central America"—a term of modern invention—could only appropriately apply to those states at one time united under the name of the "Central American Republics," and now existing as five separate republics; but, in order that there should be no possible misconception at any future period relative to this point, the two negotiators at the time of ratifying the treaty exchanged declarations to the effect that neither of the governments they represented had meant in such treaty to comprehend the settlement and dependencies in question.

Mr. Clayton's declaration to Her Majesty's Government on this subject was ample and satisfactory, as the following extract from his note of July 4, 1850, will show:

> The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by the government, and it was neither understood by them nor by either of us [the negotiators] to include the British settlement in Honduras (commonly called British Honduras, as distinct from the state of Honduras) nor the small islands in the neighborhood of that settlement which may be known as its dependencies.
>
> To this settlement and these islands the treaty we negotiated was not intended by either of us to apply. The title to them it is now and has been my intention throughout the whole negotiation to leave as the treaty leaves it, without denying or affirming or in any way meddling with the same, just as it stood previously.
>
> The chairman of the Committee on Foreign Relations of the Senate, the Hon. W. N. King, informs me that the Senate perfectly understood that the treaty did not include British Honduras.

Such having been the mutual understanding as to the exception of the settlement of Belize and its dependencies from the operation of the treaty, the only question relative to this settlement and its dependencies in reference to the treaty that can now arise is as to what is the settlement of Belize and its dependencies, or, in other words, as to what is British Honduras and its dependencies.

Her Majesty's Government certainly understood that the settlement of Belize as here alluded to is the settlement of Belize as established in 1850; and it is more warranted in this conclusion from the fact that the United States had, in 1847, sent a consul to this settlement, which consul had received his exequatur from the British Government—a circumstance which constitutes a recognition by the United States Government of the settlement of British Honduras under Her Majesty as it then existed.

Her Majesty's Government at once states this, because it perceives that Mr. Buchanan restricts the said settlement within the boundaries to which it was confined by the treaty of 1786, whilst Her Majesty's Government not only has to repeat that the treaties with old Spain cannot be held, as a matter of course, to be binding with respect to all the various detached portions of the old Spanish-American monarchy,

but it has also to observe that the treaty of 1786 was put an end to by a subsequent state of war between Great Britain and Spain; that during that war the boundaries of the British settlement in question were enlarged; and that when peace was re-established between Great Britain and Spain no treaty of a political nature, or relating to territorial limits, revived those treaties between Great Britain and Spain which had previously existed.

Her Majesty's Government, in stating this fact, declares distinctly, at the same time, that it has no projects of political ambition or aggrandizement with respect to the settlement referred to; and that it will be its object to come to some prompt, fair, and amicable arrangement with the states in the vicinity of British Honduras for regulating the limits which should be given to it, and which shall not henceforth be extended beyond the boundaries now assigned to them.

* * * * * * *

CLARENDON.

40.—*Remarks by Mr. Buchanan in reply to Lord Clarendon's statement of May 2.*

[Extract.]

LEGATION OF THE UNITED STATES,
London, July 22, 1854.

* * * * * * *

In regard to Belize proper, confined within its legitimate boundaries, under the treaties of 1783 and 1786, and limited to the usufruct specified in these treaties, it is necessary to say but a few words. The Government of the United States will not, for the present, insist upon the withdrawal of Great Britain from this settlement, provided all the other questions between the two governments concerning Central America can be amicably adjusted. It has been influenced to pursue this course partly by the declaration of Mr. Clayton, of the 4th of July, 1850, but mainly in consequence of the extension of the license granted by Mexico to Great Britain under the treaty of 1826, which that republic has yet taken no steps to terminate.

It is, however, distinctly to be understood that the Government of the United States acknowledge no claim of Great Britain within Belize except the temporary "liberty of making use of the wood of the different kinds, the fruits, and other produce in their natural state," fully recognizing that the former "Spanish sovereignty over the country" belongs either to Guatemala or to Mexico.

In conclusion, the Government of the United States most cordially and earnestly unites in the desire expressed by "Her Majesty's Government, not only to maintain the convention of 1850 intact, but to consolidate and strengthen it by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate." Under these mutual feelings it is deeply to be regretted that the two governments entertain opinions so widely different in regard to its true effect and meaning.

JAMES BUCHANAN.

41.—*Decree of the President of Nicaragua annulling the grant to the American Atlantic and Pacific Ship-Canal Company.*

Whereas the Republic of Nicaragua, on the 22d day of September, 1849 (one thousand eight hundred and forty-nine), granted to the American Atlantic and Pacific Canal Company certain rights and privileges, were subsequently modified by decree of the 11 day of April, 1850 (one thousand eight hundred and fifty), and whereas, in consideration of said rights and privileges, said company agreed to construct a ship-canal across the territory of said republic from the port of San Juan de Nicaragua to the port of Realejo, Gulf of Fonseca, Tamarinda, San Juan del Sud, or any of the points on the Pacific Ocean which the engineers of the company might decide upon, or in case that the construction and completion of said canal or any point of it should become impossible, by any unforeseen event or insurmountable obstacle of nature, to construct a railroad or rail & carriage road and water communication between the two oceans; and

Whereas the said American Atlantic and Pacific Ship-Canal Company have not constructed the said canal or commenced the same, but, on the contrary, has abandoned the undertaking and declared it impracticable, and have also failed to construct a railroad or rail and carriage road, as they agreed to do; and

Whereas the said American Atlantic and Pacific Ship-Canal Company was bound by the terms of said charter to pay the Republic of Nicaragua ten thousand dollars annually, and ten per cent. on the net profits of any route the company might establish between the two oceans during the time allotted for the completion of the canal and in furtherance thereof; and

Whereas the said American Atlantic and Pacific Canal Company have failed to pay annually said ten thousand dollars, together with the said ten per cent. net profits, falsely and fraudulently alleging that no profits were made and commission due; and

Whereas, by the said charter, it was stipulated that, for the purpose of settling all matters in dispute between the state and the company, commissioners should be appointed by the state on the one part and the company on the other; and

Whereas, on the 12th day of September, 1855 (one thousand eight hundred and fifty-five), the Republic of Nicaragua notified the said company to appoint commissioners under the charter, and the said company expressly refused the same; and

Whereas, by decree of the 9th day of March, 1850 (one thousand eight hundred and fifty), the said company was made a body politic and corporate, with perpetual succession, by the name and description of "The American Atlantic and Pacific Ship-Canal Company"; and

Whereas, on the 14th day of August, 1851 (one thousand eight hundred and fifty-one), the Republic of Nicaragua, with the sole object of facilitating the maritime canal, and in accordance with the desires expressed by the company of said canal to divide and separate from the contract of 22d September, 1849 (one thousand eight hundred and forty-nine), the part therein relating to the navigation by steam of the waters of Nicaragua, did constitute a new company, designated by the name of "Accessory Transit Company," and consisting of the same persons comprising the American Atlantic and Pacific Ship-Canal Company, and subject to the same obligations: Now, therefore,

The supreme provisional Government of Nicaragua, in virtue of the faculties,

DECREES:

1. The grant to the American Atlantic and Pacific Canal Company, of date 22d September, 1849 (one thousand eight hundred and forty-nine), and the modifications thereof, made 11th day of April, 1850 (one thousand eight hundred and fifty), and all the privileges therein contained, are *revoked* and *annulled;* the acts of incorporation of said company, of date 9th day of March, 1850 (one thousand eight hundred and fifty), and of the "Accessory Transit Company," of date 14 day of August, 1851 (one thousand eight hundred and fifty-one), *are annulled*, and the said American Atlantic and Pacific Ship-Canal Company and Accessory Transit Company *are dissolved and abolished*, except for the purposes hereinafter mentioned.

2. Señor Don Cleto Mayorga, Señor Don Eduardo I. C. Kewen, and Señor Don George F. Alden (any two of whom may act) are hereby appointed a board of commissioners, with full powers to *examine*, *liquidate*, and *ascertain* the amount due by the said American Atlantic and Pacific Canal Company and Accessory Transit Company to the state, with full powers to send for persons and papers, and to enforce respect and obedience to all their orders and decrees.

3. The said board shall proceed at once to discharge these duties, and for this purpose shall notify the agent of the companies residing in Nicaragua to appear before them forthwith, to give all evidence that may be required of them, and with the privilege to defend the interest of their principals.

4. The said companies shall be considered still in existence for the purpose of conducting this examination, and for the purpose of being held collectively responsible for such sum as may be ascertained to be due to the state, but for no other.

5. For the purpose of securing the payment of such amount the said board find due, they are hereby commanded to cause all the property of said companies to be seized forthwith and held by responsible persons, subject to the order of said board.

6. That the transit of passengers across this isthmus may suffer no interruption the board are authorized to deliver to such responsible persons as may make application all the said property so seized upon their executing a bond in a sum one-fourth greater than its appraised value, and with the conditions that the same shall be forthcoming when called for by the said board, and that the undertakers in the bond shall continue to transport the passengers who may arrive on the side of the Atlantic & Pacific Oceans, and the expenses of transporting said passengers shall be charged against the said companies.

7. Before allowing the said property to be bonded the board shall cause the same to be fairly approved by three competent persons appointed for the purpose.

8. The board shall proceed summarily and with dispatch, and on determining the amount due from the companies to the state shall report their proceedings immediately to the government.

9. The compensation of the board of commissioners, as well as of the board of appraisers, by them appointed, will be hereafter determined.

10. Let this be communicated to the proper authorities.

Given at Granada the 18th day of February, 1856.

PATRICIO RIVAS.

42.—*Additional article to the treaty of friendship, commerce, and navigation between Great Britain and Honduras, signed at London, August 27, 1856.*

Inasmuch as a contract was entered into by the Government of Honduras, and a company entitled "The Honduras Interoceanic Railway Company," for the construction of a railway from the Atlantic to the Pacific Oceans through the territories of Honduras, which contract was ratified by the constitutional powers of the state, and proclaimed as a law on the 28th day of April, 1854; and inasmuch as by the terms of Article V, section 6, of the said contract, "the Government of Honduras, with a view to secure the route herein contemplated from all interruption and disturbance, from any cause or under any circumstances, engages to open negotiations with the various governments with which it may have relations, for their separate recognition of the perpetual neutrality, and for the protection of the aforesaid route:" Therefore, in order to carry out the obligation thus incurred,

1. The Government of Honduras agrees that the right of way or transit over such route or road, or any other that may be constructed through its territories, from sea to sea, shall be at all times open and free to the Government and subjects of Great Britain, for all lawful purposes whatever. No tolls, duties, or charges of any kind shall be imposed by the Government of Honduras on the transit of property belonging to the Government of Great Britain, or on the public mails sent under the authority of the same, nor on the subjects of the British Crown. All lawful produce, manufactures, merchandise, or other property belonging to subjects of Great Britain, passing from one ocean to the other, in either direction, shall be subject to no import or export duties whatever, nor to any discriminating tolls or charges for conveyance or transit on any such route or road as aforesaid, and shall be secure and protected from all interruption and detention on the part of the state.

The Republic of Honduras further agrees that any other privilege or advantage, commercial or other, which is or may be granted to the subjects or citizens of any other country in regard to any such route or road as aforesaid, shall be also and at the same time extended to British subjects; and, finally, as an evidence of its disposition to accord to the travel and commerce of the world all the advantages resulting from its position in regard to the two great oceans, the Republic of Honduras, of her own good will, engages to establish the ports at the extremities of the contemplated road as free ports for all the purposes of commerce and trade.

2. In consideration of these concessions, and in order to secure the construction and permanence of the route or road herein contemplated, and also to secure for the benefit of mankind the uninterrupted advantages of such communication from sea to sea, Her Britannic Majesty recognizes the rights of sovereignty and property of Honduras in and over the line of the said road, and for the same reason guarantees, positively and efficaciously, the entire neutrality of the same so long as Great Britain shall enjoy the privileges conceded to it in the preceding section of this article. And when the proposed road shall have been completed Her Britannic Majesty equally engages, in conjunction with the Republic of Honduras, to protect the same from interruption, seizure, or unjust confiscation from whatsoever quarter the attempt may proceed.

Nevertheless, Her Britannic Majesty, in according her protection to the said route or road, and guaranteeing its neutrality and security

when completed, always understands that this protection and guarantee are granted conditionally, and may be withdrawn by her if she should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this article, either by making unfair discriminations in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandize, or other articles.

The aforesaid protection and guarantee shall not, however, be withdrawn by Her Britannic Majesty without first giving six months' notice to the Republic of Honduras.

The present additional article shall have the same force and validity as if it were inserted word for word in the treaty of friendship, commerce, and navigation signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time; and its stipulations shall, subject to the same condition of notice on the part of Her Britannic Majesty, provided for in the preceding paragraph of this article, be permanent between the contracting parties.

In witness whereof the respective plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done at London the 27th day of August, in the year of our Lord 1856.

[L. S.] CLARENDON.
[L. S.] VR. HERRAN.

43.—*Lord Napier to Lord Clarendon.*

No. 5.] WASHINGTON, *March* 12, 1857. (Received March 29.)

MY LORD: I had this afternoon an interview with General Cass, when I requested that he would communicate to me the views taken in the Senate with reference to the Central American treaty, as far as was consistent with the secrecy of the pending deliberation.

The Secretary of State replied that the subject was at that very hour under discussion, and that opinions were divided in the following manner: Some held that the treaty should be sanctioned in its original form, others that it should be accepted with certain modifications, while a third party advocated its rejection, but proposed to temper this course by the adoption of certain resolutions embodying sentiments of a friendly disposition towards Great Britain, and approving a settlement of the Central American question in conformity with the spirit of the treaty agreed to by your lordship and Mr. Dallas. General Cass appeared to anticipate that the last alternative would prevail.

I remarked that I was not surprised by the result which he predicted, for impressions of a similar character had been imparted to me at New York; but I added that Her Majesty's Government would certainly learn with concern that all the efforts of Mr. Dallas, aided by your lordship's generous co-operation, had not succeeded in framing an arrangement acceptable to the Senate; such an issue had not been anticipated by the United States minister, and your lordship's expectations of the success of the treaty had been confirmed by the intelligence derived from Mr. Dallas that he (General Cass) had given the measure his support in the first instance.

The Secretary of State explained that at an early period a general outline of the projected arrangement had reached him, and had certainly

obtained his warm approval, but that when he came to know the details more accurately he recognized in them principles of foreign intervention repugnant to the policy of the United States. The treaty engaged the Government of the United States to combine with that of Great Britain in urging a certain course of conduct on a foreign state. This could not be allowed; it was not consistent with the common practice of his country. The object, indeed, was good, and he hoped it might be attained in another shape, It might be prosecuted by a direct and distinct negotiation between Great Britain and Nicaragua, in which Her Majesty's Government would, if necessary, have the good offices of the President.

General Cass then passed some reflections on the Clayton-Bulwer treaty; he had voted for it, and in doing so he believed that it abrogated all intervention on the part of England in the Central American territory. The British Government had put a different construction on the treaty, and he regretted the vote he had given in its favor. He did not, however, pretend that the British Government should now unconditionally abandon the Mosquitos with whom they had relations of an ancient date; it was just and consistent with the practice of the United States that those Indians should be secured in the separate possession of lands, the sale of which should be prohibited, and in the enjoyment of rights and franchises, though in a condition of dependency and protection. The British Government had already removed one impediment to the execution of the Bulwer-Clayton treaty by the cession of their claims on Ruatan; two difficulties now remained, the frontier of Belize and the delimitation and settlement of the Mosquito tribe. If the frontier could be defined, and if the Mosquitos could be placed in the enjoyment of their territory by treaty between Great Britain and Nicaragua, in which the concessions and guarantees of the latter in favor of the Indians should be associated with the recognition of the sovereignty of Nicaragua—so I understood the general—then the Bulwer-Clayton treaty might be a permanent and satisfactory settlement between the contracting parties. The United States desired nothing else but an absolute and entire neutrality and independence of the Central American region, free from the exercise of any exclusive influence or ascendency whatever.

The Secretary of State terminated a rather desultory conversation on these matters by stating that his present remarks were to be regarded as of a merely general and speculative nature. The Senate had not yet pronounced; as soon as the decision was known and the resolutions taken they should be transmitted to your lordship through Mr. Dallas, and communicated to myself.

General Cass, before I took my leave, offered me an emphatic assurance of good will to the Government of Great Britain, and expressed the satisfaction which he hoped to find in his correspondence with Her Majesty's mission.

I have, &c.,

NAPIER.

The EARL OF CLARENDON.

44.—*Lord Napier to Lord Clarendon.*

[Extract.]

No. 14.] WASHINGTON, *May* 6, 1857. (Received May 25.)

On receiving your lordship's dispatch of the 17th ultimo on the 2d instant, informing me that Her Majesty's Government had not found it expedient to ratify the Central American treaty in its altered shape, and instructing me to propose the conclusion of a new treaty embodying all the resolutions of the United States Senate, with the single addition framed as a safeguard for British interests in the Bay Islands, I determined not to carry your lordship's orders into execution without previously soliciting an interview with the President. His excellency did me the honor to appoint an early day for this purpose, but an attack of illness prevented me from availing myself of his goodness, and it was not until this afternoon that I was enabled to pay my respects to his excellency.

I found the President fully informed of the grounds on which Her Majesty's Government had based their resolution, and of their desire to enter into new engagements, but I think he entertained an impression that the reason alleged by Her Majesty's Government did not really express the whole or the most cogent motive of their objections, and he was not apprised of the terms of the simple qualification which Her Majesty's Government propose to add to the treaty as modified by the Senate.

I placed your lordship's instructions in the hands of the President. He assured me that he was now quite convinced that the non-ratification of the Honduras treaty formed the true and only motive for the rejection of that negotiated by your lordship with Mr. Dallas; that he could hardly understand the importance attached to this point by Her Majesty's Government; that he deeply regretted their determination, and that it was the last ground on which he had anticipated any reluctance.

The President thought Her Majesty's Government had acted unwisely in neglecting this opportunity to close the Central American discussions and place the relations of the two countries on a satisfactory basis at a moment when the public feeling was so friendly on either side of the Atlantic.

After reading the article proposed by Her Majesty's Government he told me, not without some appearance of regret, that unless he changed his opinion, of which he saw little prospect, he could not assent to a stipulation which would involve the recognition by his government of a treaty between Great Britain and Honduras relative to the Bay Islands, and if he did accept such a stipulation it would infallibly be rejected by the Senate.

I argued that whatever there was repugnant to the feelings of the Senate in reference to slavery, or whatever there was unacceptable in regard to trade or government in the treaty of August 27, 1856, might be subjected to some change, and I offered to bring his views on this subject under your lordship's notice, but his excellency held out no hope; his objection pointed to the recognition of any treaty at all—to the bare allusion to it. Great Britain and Honduras might frame any settlement they pleased for the future government of the islands; it was their business, not that of the United States. The United States could not take cognizance of those arrangements in any degree, however remote and indirect.

Finding the President quite firm in this position, I shifted the discus-

sion to the relations of the two countries in case of the official rejection of your lordship's present proposal, remarking that we should fall back on the Clayton-Bulwer treaty, a basis which, if not fixed by arbitration or in some other way, would break up under our feet.

The President denounced the Clayton-Bulwer treaty as one which had been fraught with misunderstanding and mischief from the beginning; it was concluded under the most opposite constructions by the contracting parties. If the Senate had imagined that it could obtain the interpretation placed upon it by Great Britain, it would not have passed. If he had been in the Senate at the time, that treaty never would have been sanctioned. With reference to arbitration (which I had only thrown in as a suggestion of my own), he observed that he could not give any opinion at present. The President also inveighed against the success of treaties, affirming that they were more frequently the cause of quarrel than of harmony, and that, if it were not for the interoceanic communications, he did not see there was any necessity for a treaty respecting Central America at all.

NAPIER.

The EARL OF CLARENDON.

45.—General Cass to Lord Napier.

WASHINGTON, *May* 29, 1857.

MY LORD: I have received your lordship's note of the 6th instant, communicating the resolution of the British Government to advise the Queen not to ratify the treaty of the 17th October, 1856, respecting the affairs of Central America, and which had been modified by the Senate of the United States, and in its modified form submitted for the consideration and action of your government. I have laid before the President this note, together with the accompanying projet of a new treaty, and I have received his instructions to make known to you his views upon the subject.

The Clayton-Bulwer treaty, concluded in the hope that it would put an end to the differences which had arisen between the United States and Great Britain concerning Central American affairs, had been rendered inoperative in some of its most essential provisions by the different constructions which had been reciprocally given to it by the parties; and little is hazarded in saying that had the interpretation since put upon the treaty by the British Government, and yet maintained, been anticipated it would not have been negotiated under the instructions of any Executive of the United States nor ratified by the branch of the government intrusted with the power of ratification.

A protracted discussion, in which the subject was exhausted, failed to reconcile the conflicting views of the parties; and as a last resort a negotiation was opened for the purpose of forming a supplementary treaty which should remove, if practicable, the difficulties in the way of their mutual good understanding, and leave unnecessary any further discussion of the controverted provisions of the Clayton-Bulwer treaty. It was to effect this object that the Government of the United States agreed to open the negotiations which terminated in the treaty of October 17th, 1856, and though the provisions of that instrument, even with the amendments proposed by the Senate, were not wholly unobjectionable either to that body or to the President, still, so important

did they consider a satisfactory arrangement of this complicated subject that they yielded their objections and sanctioned, by their act of ratification, the convention as amended. It was then transmitted to London for the consideration of Her Britannic Majesty's Government, and having failed to meet its approbation has been returned unratified. The parties are thus thrown back upon the Clayton-Bulwer treaty, with its disputed phraseology and its conflicting interpretations; and, after the lapse of seven years, not one of the objects connected with the political condition of Central America, which the United States had hoped to obtain by the arrangement, has been accomplished.

Under these circumstances your lordship informs me that the British Government, appreciating the differences which this subject has caused "between the two countries," have determined to propose to the United States the conclusion of a new treaty, and in conformity with your instructions this proposition is accompanied with the *projet* of a convention which, if ratified by the President and Senate of the United States, it is engaged will be ratified by Her Britannic Majesty.

The draft presented is identical in its language with the treaty of October, as ratified by the Senate, except that to that clause of the second separate article which provides for the recognition of the Bay Islands "as under the sovereignty and as part of the Republic of Honduras" there is added the provision:

> Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain by which Great Britain shall have ceded, and the Republic of Honduras shall have accepted, the said islands, subject to the provisions and conditions contained in the said treaty.

This provision is a substitute for the provision relating to the same subject contained in the rejected treaty, and which referred to a subsisting convention with Honduras for the cession to that republic of the Bay Islands. Taken in connection with this convention, of which your lordship was good enough on the 10th instant to communicate a copy to this department, upon my application, that provision, whilst declaring the Bay Islands to be "a free territory under the sovereignty of the Republic of Honduras," deprived that country of rights without which its sovereignty over them could scarcely be said to exist. It separated them from the remainder of Honduras, and gave them a government of their own, with their own legislative, executive, and judicial officers, elected by themselves. It deprived the government of Honduras of the taxing power in every form, and exempted the people of the Bay Islands from the performance of military duty, except for their own defense, and it prohibited the republic from providing for the protection of these islands by the construction of any fortifications whatsoever, leaving them open to invasion from any quarter. Had Honduras ratified this treaty, she would have ratified the establishment of an "independent" state within her own limits, and a state at all times liable to foreign influence and control. I am not, therefore, surprised to learn from your lordship that "Her Majesty's Government do not expect that this treaty, in its present shape, will be definitively sanctioned by that republic."

But, while this expectation may be justified by the event, it is certain that the new provision, like the former one, contemplates the cession of the Bay Islands to Honduras, only upon certain "conditions," and that these conditions are to be sanctioned by this government. The proposition, therefore, though changed in form, is the same in substance with that which was recently rejected by the Senate of the United States, and a just respect for the Senate would prevent the President from now consenting to its insertion in a new treaty. The action of that body,

moreover, met his cordial approbation, because it is his firm conviction that the Bay Islands are a part of the territory of Honduras, and justly subject to its government and to no other authority. Entertaining this opinion, it would be impossible for him to sanction any arrangement by which their restoration may be made dependent upon conditions either already prescribed or left to be prescribed hereafter. The case of these islands, as your lordship is aware, stands out in bold relief from all the other subjects embraced in the Clayton-Bulwer treaty. That instrument provided that neither of the parties should "colonize" any portion of Central America; and yet more than a year after its ratification, the colony of the Bay Islands was established by an act of the British Government. The United States have always considered that proceeding a violation of the treaty, even with the British construction of it; and the claim for its justification that the Bay Islands are dependencies of the Belize settlement cannot, it is believed, be maintained with success upon either American or British authority. It is directly at variance with the description given by Sir Charles Grey, the secretary of state for the colonies, in 1836, of the boundaries of the Belize settlement; and, from the discussions between the two governments which took place in London in 1854, it cannot be doubted that it was opposed also to the deliberate opinion of Lord Aberdeen, then at the head of the British cabinet.

Independently, however, of these considerations, there is another view of the subject which interposes insuperable obstacles to the desired action of the United States upon this treaty. The character or the extent of the concessions which England may demand of Honduras is nowhere defined in that instrument. Any grant, however inconsistent with the independence or the rights of that republic, if not inconsistent with the expresss provisions of the treaty, may be demanded by Great Britain, and, if rejected, what then will be the condition of the parties? Great Britain would retain the possession of these islands, with the implied concurrence of the United States, and this valuable group, overlooking one of the great avenues of communication of the world, and in the freedom and security of which the United States have a far deeper interest than any other nation, might thus eventually become a permanent portion of the British Empire. That the United States should decline to make themselves a party to such an arrangement can surely occasion neither surprise nor disappointment to the people or statesmen of Great Britain.

I am, therefore, directed by the President to announce to your lordship that he cannot accept the *projet* of a treaty which, agreeably to your instructions, you have presented for his consideration. But, while feeling it his duty so to decide, he fully reciprocates the desire of your government to cement the amicable relations of the two countries, and, during his administration, no effort shall be wanting on his part to prevent any interruption of that friendly intercourse which both Great Britain and the United States have so many powerful motives to promote.

I have, &c.,

LEWIS CASS.

46.—*Lord Napier to Lord Clarendon.*

[Extract.]

No. 19.] WASHINGTON, *June* 22, 1857. (Received July 7.)

It is probable that if the pending discussions regarding Central America be not closed during the present summer, an attempt will be made in the next session of Congress to set aside the Clayton-Bulwer treaty. My impression to this effect is constantly deepened by reflection and by the information which reaches me from several quarters.

There can be no doubt of the views of the President and Cabinet in this matter.

NAPIER.

The EARL OF CLARENDON.

47.—*Lord Napier to Lord Clarendon.*

[Extract.]

WASHINGTON, *October* 12, 1857. (Received October 30.)

MY LORD: I am now assured that the American Cabinet will shortly receive Mr. Yrissari in the quality of minister from Nicaragua, and that a treaty will be negotiated with him for the protection of the interoceanic passage by the River San Juan, similar to that contracted between Great Britain and Honduras for the guarantee of the railway projected across the territory of the latter state.

At the same time the Government of Nicaragua have recognized the existence of the old "American Atlantic and Pacific Ship Canal Company," which appeared to have lapsed during the operations of the "Accessory Transit Company," of filibustering notoriety. The original charter of the former association has been modified under the deliberations of the Nicaraguan minister and Mr. Joseph White, the legal adviser of that body. The company is under the nominal presidency of Mr. Stevens, of New York, and is said to comprise some persons of credit and substantial resources, but Mr. White is the active agent in the enterprise. If not officially recognized, his project is viewed with favor by the American Cabinet, and I think it may very probably be carried into operation.

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NAPIER.

48.—*General Cass to Lord Napier.*

WASHINGTON, *October* 20, 1857.

MY LORD: I have had the honor to receive your lordship's communication of the 9th instant, in reference to the existing relations between Nicaragua and Costa Rica, and have submitted it to the consideration of the President.

These relations have attracted the earnest attention of the President, not only from the importance of the San Juan transit to the commerce of the world, but from the interest which is naturally felt by the United States in the neighboring republics of this continent. The President

has witnessed, therefore, the restoration of peace to Nicaragua and Costa Rica with the highest gratification; and he sincerely hopes that it may not again be interrupted either by the calamity of civil war or the invasion of their territory from other countries. Their security and welfare would undoubtedly be promoted by a just and friendly settlement between them of their mutual boundaries and jurisdiction; and I need hardly add that such an adjustment would be viewed with satisfaction by the United States. This government, however, has never admitted the pretensions of Costa Rica to an equal control with Nicaragua of the San Juan River, but has regarded the sovereignty of the river, and consequently of the interoceanic transit by that route, as rightfully belonging to the Republic of Nicaragua.

A similar view of the question appears to have been recognized by Great Britain, and, whatever may be the rights of Costa Rica with respect to the free passage of her own products by the river to the ocean, it is better, probably, that what has been thus acquiesced in, and has led moreover to important contracts and responsibilities, should not now be disturbed. But under any circumstances the commercial nations of the world can never permit the interoceanic passages of the isthmus to be rendered useless for all the great purposes which belong to them in consequence of the neglect or incapacity of the states through whose territories they happen to run. The United States, as I have before had occasion to assure your lordship, demand no exclusive privileges in these passages, but will always exert their influence to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world. The rumored invasion of Central America, which your lordship apprehends may delay the re-establishment of the transit service through Nicaragua, has not escaped the attention of the President, and his views on the subject are clearly indicated in the circular from this Department of the 18th ultimo, which has been printed in the public journals, and has not escaped your lordship's notice.

No nation on earth, it is believed, appreciates its national rights and duties more highly than the United States, and no one is more ready to concede to other nations, whether strong or weak, that measure of justice which it claims for itself. Any such expedition as that which has been mentioned is forbidden, under severe penalties, by the laws of this country, and these laws the President will take care, on all proper occasions, to enforce.

I have thus endeavored to meet the frank suggestions of your lordship by restating, with corresponding frankness, the general policy of the United States with respect to the governments and the interoceanic transits of Central America; but since your lordship has referred to the Clayton-Bulwer treaty of 1850 as contemplating a "harmonious course of action and counsel between the contracting parties in the settlement of the Central American interests," you will pardon me for reminding your lordship that the differences which this treaty was intended to adjust between the United States and Great Britain still remain unsettled, while the treaty itself has became the subject of new and embarrassing complications.

Until these disagreements can be removed, and the states of Central America can be left to that independent control of their own affairs, with which the continued claims of Great Britain in that quarter seem to this government quite inconsistent, it is easy to see that the harmony of action and counsel between this government and that of Her Britannic Majesty, to which your lordship refers, must be always attended with difficulty, if not found impossible.

It was hoped that these differences would be removed by the approval, on the part of Great Britain, of the amended treaty of October 17, 1856, which had been sanctioned by the President in a spirit of amity towards that kingdom, although its provisions were not wholly in accordance with his views. But the British Government found it necessary to withhold their approval, and the treaty was returned from London unratified.

It was impossible for this government to consent to the treaty in its original form, for reasons which your lordship well understands, and no further discussion has been had on the subject between the two governments.

The President still entertains an earnest hope that all subjects of disagreement which now exist between the United States and Great Britain may be harmoniously adjusted at an early day, but he cannot be insensible to the long delay which has attended their negotiations on the subject of Central America, or to the serious difficulties which the continuance of this delay is calculated to produce.

I avail, &c.,

LEWIS CASS.

49.—*Lord Napier to Lord Clarendon.*

[Extract.]

No. 26.] WASHINGTON, *October* 22, 1857. (Received November 9.)

On receiving an intimation from your lordship that Her Majesty's Government had determined to send out a special minister to Central America, with a view of adjusting the questions under discussion in that quarter, I sought an interview with the President for the purpose of communicating this intelligence to his Excellency.

The President received me on the afternoon of the 19th instant, and I was enabled to report to your lordship by the mail of the same day, in a private form, the substance of a conversation which I have now the honor to submit to your lordship with more accuracy and extension.

I stated to the President that, since the failure of the late overtures consequent on the non-ratification of the treaty of 1856, Her Majesty's Government had considered the several alternatives of action which were open to their selection, and on a review of the whole case, had resolved to dispatch a representative of authority and experience to Central America, charged to make a definitive settlement of all the matters with regard to which the United States and England were still at variance.

This conclusion had been embraced for some time past, and the delay which had occurred was referable partly to the difficulty of selecting a competent person for a duty which involved much personal inconvenience, and demanded peculiar qualifications, and partly to the nature of the intelligence from India, which had of late absorbed the attention of the English cabinet.

Her Majesty's Government had, however, now appointed Sir William Gore Ouseley for the service alluded to, and felt the greater satisfaction in doing so because he was intimately known to the President and enjoyed his good opinion.

I could not state exactly the character of the instructions with which

Sir William Ouseley would be charged, but I might infer from all that had reached me that they would virtually be to the following effect:

The efforts of the new plenipotentiary would be directed to those objects which had been dealt with in the treaty of 1856, now laid aside, viz, the cession of the Bay Islands to Honduras, the substitution of the sovereignty of Nicaragua for the protectorate of England in Mosquito, and the regulation of the frontiers of Belize.

In short, I believed it was the intention of Her Majesty's Government to carry the Clayton-Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States, but to do so by separate negotiation with the Central American Republics, in lieu of a direct engagement with the Federal Government.

The President commenced his observations by referring to the Clayton-Bulwer treaty as a fruitful source of misunderstanding between the contracting parties. Without that treaty the United States and Great Britain might long since have co-operated for the welfare of Central America. That treaty had never been acceptable to the people of the United States, and would not have obtained a vote in the Senate, had the least suspicion existed of the sense in which it was to be construed by Great Britain; yet if it were now the intention of Her Majesty's Government to execute it according to the American interpretation, that was as much as he could insist upon.

In any arrangement entered into with this purpose, he must, however, remark that the Government of the United States could not recognize as satisfactory the cession of the Bay Islands to Honduras, with stipulations similar to those contained in the treaty lately negotiated between England and that republic, which left the Bay Islands as much under the protection of Great Britain as Mosquito. He did not know what had become of that treaty.

I replied that I felt convinced it had been the intention of Her Majesty's Government to deliver the islands to Honduras in full sovereignty, and that the franchises awarded to them by the treaty were designed for the freedom of trade, the protection of the vested interests of British subjects, and the welfare of the inhabitants.

I added that his excellency was well aware of the convictions conscientiously held in England respecting slavery, and of the respect which Her Majesty's Government owed to public feeling on that subject. I might plainly affirm that a principal motive in framing securities for the after government of the Bay Islands had been the apprehension that, when relinquished by the English authorities, those islands would be settled by planters from the United States, who would bring their negroes with them, and thus establish slavery on soil which had, justly or unjustly, been declared to be a colonial dependency of Great Britain.

Her Majesty's Government, moreover, regarded the Bay Islands as forming, in a manner, one of the termini of the Honduras transit route, and therefore desired to see them endowed with the privileges of a free port, the Island of Tigre, in the Gulf of Fonsega, at the other extremity, having long possessed those immunities.

The President contended that the stipulations were uncalled for and that Her Majesty's Government might have surrendered the islands freely, and subsequently enforced on the Government of Honduras a due respect to the claims of British settlers.

In reply to his excellency, I allowed that the articles establishing the administrative independence of the islands might have been larger than was necessary. I had observed the same impression in the corre-

spondence of Mr. Wyke, Her Majesty's chargé d'affaires at Guatemala, who seemed to admit that a greater participation in the internal government might be granted to the authorities of Honduras; that I made no doubt Her Majesty's Government would entertain any reasonable suggestions which might be afforded to them in that sense. As far as I knew the discussion was not closed, and Sir William Ouseley would, probably, have power to enter upon it in a liberal spirit.

I then went on to animadvert upon the danger of some movement in the approaching Congress which would interfere with the contemporary negotiation of Sir William Ouseley, remarking that should the President in his message allude to the position of the two countries in reference to Central America, and if, in consequence of his excellency's reflections a resolution should be proposed for the abrogation of the Clayton-Bulwer treaty, such a step would not only frustrate the purposes of Sir William Ouseley's mission, but would have a calamitous influence on the future relations of England and America. It would, therefore, be highly gratifying to me to be enabled to assure your lordship that, pending the negotiation intrusted to Sir William Ouseley, no proposal to annul the treaty would be sanctioned or encouraged by his excellency or by the members of his government.

The President stated, in reply, that it was certainly his intention to give an account in his message of all that has passed between the two governments respecting the Dallas-Clarendon treaty. He appeared to intimate that the effect of such a narrative would be to place the conduct of Great Britain in an unfavorable light, and he added that the passage in which he commented upon these transactions was already prepared; but his excellency went on to affirm, with emphasis, that if the resolutions of Her Majesty's Government were such as I had related, if they really meant to execute the Clayton-Bulwer treaty according to the American interpretation, and would, before the meeting of Congress, make some communication to him in that sense, such as he could use, he would cancel what he had written and insert another passage referring to the mission of Sir William Ouseley, and that "nothing would give him greater pleasure than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."

His excellency also distinctly declared that, under the circumstances here described, no attempt against the Clayton-Bulwer treaty in Congress would have any countenance from him whatever. To him it was indifferent whether the concessions contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States, or to treaties between the former and the Central American republics. The latter method might, in some respects, be even more agreeable to him, and he thought it would be more convenient to Her Majesty's Government, who might, with greater facility, accede to the claims of the weaker party.

I thanked the President for his assurances, and expressed my hope that your lordship would be enabled to make a full communication of Sir William Ouseley's instructions to the American Cabinet, and even to direct that minister to visit Washington, on his way to Central America, if his excellency thought such a step would be advisable. The President replied that a written communication would be sufficient, even if it reached him a few days before the meeting of Congress.

In the course of this interview the President touched incidentally upon the Honduras Railway, which he trusted might prove a successful enterprise, although the impressions which reached him were un-

favorable to its practicability, or, at least, to its profitable execution. In this sentiment I concurred with the President, and avowed my apprehension that the undertaking would be the grave of a vast amount of British capital, which had been already so extensively wasted on the American continents.

Allusion having been made to the relations of Costa Rica and Nicaragua, the President asserted that the United States aimed at no exclusive privileges and at no possession in that region; their interests and those of Great Britain were identical. I answered that such had always been my persuasion and my language, and that the parties who had obtained concessions from Costa Rica for the transit or the navigation of the River San Juan, acted, in my belief, without any sanction or authority from Her Majesty's Government. The jurisdiction of the transit was vested in Nicaragua; but Her Majesty's Government, I thought, would desire to secure the beneficial use of the river to Costa Rica for the purposes of import and export trade—a claim which seemed equitable and consistent with the views of the United States with reference to the navigation of the Amazon.

I have the pleasure of reporting to your lordship that the President took occasion to declare his satisfaction in the sympathy which had been displayed throughout the United States towards England since the outbreak of the Indian mutiny, and his own confidence in the success of Her Majesty's arms, which was to be desired in the interest of the natives of Hindostan.

At the conclusion of the interview, as I rose to take my leave, the President resumed the subject and said:

I shall be satisfied on condition that the British Government sends a minister to Central America, instructed to settle all the questions which have been controverted between the two governments according to the American construction of the treaty, and upon receiving an official assurance to this effect I shall change the character of my message.

In affirming the present policy of Her Majesty's Government to be "the execution of the Clayton-Bulwer treaty according to the general tenor of the interpretation placed upon it by the United States," I trust that I have not misconstrued the views of Her Majesty's Government in the mission of Sir William Ouseley.

I am careful in my language on this subject to mark that I spoke on a broad impression of your lordship's intentions, and not on a particular official knowledge of the decision of Her Majesty's Government.

I need not add that the engagements of the President do not depend in any degree on what I have hazarded on my own responsibility, but are altogether contingent on the nature of the communication which his excellency may receive before the 4th of next December, when Congress will assemble.

NAPIER.

The EARL OF CLARENDON.

50.—*Cass-Yrisarri treaty, November* 16, 1857.

The Republic of Nicaragua and the United States of America, being desirous to maintain with each other the most friendly relations, to promote the commercial intercourse of their respective citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific Oceans by the river San Juan de Nicaragua and either or both the lakes of Nicaragua and Managua, or by any other

route through the territories of said Republic of Nicaragua, have deemed it expedient to conclude a treaty of friendship, commerce and navigation, and for this purpose have named the following plenipotentiaries, that is to say:

The Republic of Nicaragua, Antonio José de Yrisarri, her envoy extraordinary and minister plenipotentiary in the United States of America;

And the President of the United States of America, Lewis Cass, Secretary of State of the United States; who, after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE I.

There shall be perpetual amity between the United States and their citizens, on the one part, and the Government of the Republic of Nicaragua and its citizens on the other.

ARTICLE II.

There shall be, between all the territories of the United States and the territories of the Republic of Nicaragua, a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have full liberty, freely and securely, to come, with their ships and cargoes, to all places, ports, and rivers, in the territories aforesaid, to which other foreigners are, or may be, permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively.

In like manner the respective ships of war and post-office packets of the two countries shall have liberty, freely and securely, to come to all harbors, rivers, and places to which other foreign ships of war and packets are, or may be, permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood, in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III.

It being the intention of the two high contracting parties to bind themselves, by the preceding articles, to treat each other on the footing of the most favored nation, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other State, shall be extended to the subjects of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible, of proportionate value and effect, to be adjusted by mutual agreement if the concession shall have been conditional.

ARTICLE IV.

No higher nor other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States than are, or shall be, payable upon the like articles being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are, or may be, payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed upon the exportation or importation of any articles the growth, produce, or manufacture of the territories of the United States or the Republic of Nicaragua, to or from the said territories of the United States, or to or from the Republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V.

No higher nor other duties or payments, on account of tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels; nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

ARTICLE VI.

The same duties shall be paid on the importation into the territories of the Republic of Nicaragua of any article being the growth, produce and manufacture of the territories of the United States, whether such importations shall be made in Nicaraguan vessels or in vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the Republic of Nicaragua, whether such importation shall be made in United States or Nicaraguan vessels.

The same dues shall be paid and the bounties and drawbacks allowed on the exportation to the Republic of Nicaragua of any articles being the growth, produce, or manufacture of the territories of the United States, whether such exportations shall be made in Nicaraguan or United States vessels; and the same duties shall be paid and the same bounties and drawbacks allowed on the exportation of any articles being the growth, produce, or manufacture of the Republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICLE VII.

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the Republic of Nicaragua to manage their own affairs themselves, as permitted by the

laws, or to commit them to the management of whomsoever they please, as broker, factor agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor to pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into, or exported from, the Republic of Nicaragua, as they shall see good, observing the laws and established customs of the country.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the Republic of Nicaragua under the same conditions.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in said countries, respectively, for the prosecution and defense of their just rights; and they shall be at liberty to employ, in all cases, the advocates, attorneys, or agents, of whatever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

ARTICLE VIII.

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of the merchandise, goods, and effects; the succession to personal estates, by will or otherwise; and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties, and rights as native citizens; and they shall not be charged, in any of these respects, with any higher imposts or duties than those which are, or may be, paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union or within the Republic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate.

But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the state in which it may be situated, there shall be accorded to the said heir, or other successor, such term as the laws of the state will permit to sell such property; he shall be at liberty at all times to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which, in a similar case, would be paid by an inhabitant of the country in which the real estate may be situated.

If any citizen of either of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul or other diplomatic agent of the nation to which the deceased belonged (or the representative of such minister or consul or other diplomatic agent, in case of absence), shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, giving proper notice of such nomination to the authorities of the country.

ARTICLE IX.

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with the natives of the country, hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the Republic of Nicaragua, and the citizens of Nicaragua residents in the United States, shall be exempted from all forced (or compulsory) military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged in the same manner as the citizens of each nation to pay lawful taxes, municipal and other modes of imposts and ordinary charges, loans, and contributions in time of peace (as the citizens of the country are liable), in just proportion to the property owned.

3. Nor shall the property of either, of any kind, be taken for any public object, without full and just compensation to be paid in advance; and,

4. The citizens of each of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

ARTICLE X.

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party.

But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent, and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities whatever as are, or shall be, allowed to the agents of the same rank belonging to the most favored nations; and, in like manner, the diplomatic agents and consuls of the United States in Nicaragua, shall enjoy, according to the strictest reciprocity, whatever privileges, exemptions, and immunities that are, or may be, granted in the Republic of Nicaragua to the diplomatic agents and consuls of the most favored nations.

ARTICLE XI.

For the better security of commerce between the citizens of the United States and the citizens of Nicaragua it is agreed that if at any time any interruption of friendly intercourse or any rupture should unfortunately take place between the two high contracting parties, the citizens of either, who may be within the territories of the other, shall, if residing on the coast, be allowed six months, and if in the interior, a whole year, to wind up their accounts and dispose of their property; and a safe conduct shall be given to them to embark at any port they themselves may select. Even in case of a rupture all such citizens of either of the high contracting parties, who are established in any of the territories of the other in trade or other employment, shall have the privilege of remain-

ing and of continuing such trade or employment without any manner of interruption, in the full enjoyment of liberty and property, so long as they behave peacefully and commit no offense against the laws, and their goods and effects, of whatever description they may be, whether in their own custody or instrusted to individuals, or to the state, shall not be liable to seizure or sequestration nor to any other charges or demands than those which may be made upon the like effects or property belonging to the native citizens of the country in which such citizens may reside. In the same case, debts between individuals, property out in public funds, and shares of companies, shall never be confiscated nor detained.

ARTICLE XII.

The citizens of the United States and the citizens of the Republic of Nicaragua, respectively, residing in any of the territories of the other party shall enjoy in their houses, persons, and property the protection of the government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested, or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, agreeably to the system of tolerance established in the territories of the high contracting parties, provided they respect the religion of the nation in which they reside, as well as the constitution, laws, and customs of the country.

Liberty shall be also granted to bury the citizens of either of the two high contracting parties who may die in the territories aforesaid, in burial places of their own, which, in the same manner, may be freely established and maintained; nor shall the funerals or sephulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII.

Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity and given all favor and protection for repairing their vessels, procuring provisions and placing themselves in all respects in a condition to continue their voyage without obstacle or hinderance of any kind.

ARTICLE XIV.

The Republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific Oceans through the territories of that republic on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed, in the same manner and upon equal terms by both republics and their respective citizens, the Republic of Nicaragua, however, reserving its right of sovereignty over the same.

ARTICLE XV.

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality

of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

And the Republic of Nicaragua on its part undertakes to establish two free ports, one at each of the extremities of the communications aforesaid on the Atlantic and Pacific Oceans. At these ports no tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended *bona fide* for transit across the said routes of communication and not for consumption, within the Republic of Nicaragua.

The United States shall also be at liberty to carry troops and munitions of war in their own vessels or otherwise to either of the said free ports, and shall be entitled to their conveyance between them without obstruction by the authorities of Nicaragua, and without any charges or tolls whatever for their transportation on either of said routes of communication. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons or property of citizens or subjects of the United States or of any other country across the said routes of communication than are or may be imposed on the persons and property of citizens of Nicaragua. And the Republic of Nicaragua recognizes the right of the Postmaster-General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the Government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI.

The Republic of Nicaragua agrees that, should it become necessary at any time to employ military force for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but, upon failure to do this for any cause whatever, the Government of the United States may, after notice to the Government of Nicaragua, or to the minister thereof in the United States, employ such force, for this and for no other purpose; and when the necessity ceases, such force shall be immediately withdrawn.

ARTICLE XVII.

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discriminations in favor of the commerce of any nation or nations over the commerce of any other nation or nations, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise, or other articles.

The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the Republic of Nicaragua.

ARTICLE XVIII.

And it is further understood and agreed that in any grants or contracts which may hereafter be made or entered into by the Government of Nicaragua having reference to the interoceanic routes above referred to, or either of them, the rights and privileges granted by this convention to the Government and citizens of the United States shall be fully protected and reserved. And if any such grants or contracts now exist of a valid character, it is further understood that the guarantee and protection of the United States stipulated in Article XV of this treaty shall be held inoperative and void until the holders of such grants or contracts shall recognize the concessions made in this treaty to the Government and citizens of the United States with respect to such interoceanic routes, or either of them, and shall agree to observe and be governed by those concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement, said guarantee and protection shall be in full force; provided that nothing herein contained shall be construed either to affirm or deny the validity of any of the said contracts.

ARTICLE XIX.

After ten years from the completion of a railroad or any other route of communication through the territory of Nicaragua, from the Atlantic to the Pacific Ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends, or otherwise, more than fifteen per cent. per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of fifteen per cent. per annum.

ARTICLE XX.

It is understood that nothing contained in this treaty shall be construed to affect the claim of the government and citizens of the Republic of Costa Rica to a free passage by the San Juan River for their persons and property to and from the ocean.

ARTICLE XXI.

The two high contracting powers, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of twenty years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the twenty years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXII.

The present treaty shall be ratified, and the ratifications exchanged, at Washington City, within the space of nine months, or sooner, if possible.

In witness whereof the respective plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done at the city of Washington, this sixteenth of November, in the year of our Lord one thousand eight hundred fifty-seven.

LEWIS CASS.
A. J. DE YRISARRI.

51.—*Lord Napier to General Cass.*

[Extract.]

WASHINGTON, *November* 30, 1857.

SIR: * * * * * *

2. In framing stipulations for the compensation, the government, and the preservation of the Mosquito Indians under the sovereignty of Nicaragua, Sir William Ouseley will be guided by the provisions of the treaty of 1856, which, although it did not acquire the validity of an international engagement, may on this point be held to express the policy and opinions of the contracting parties. The limits of the territorial reserve may be subject to modification, but the boundaries proposed to Nicaragua and Honduras will certainly not be less favorable than those indicated by the treaty alluded to; they will in no degree trespass on the territory applicable to transit purposes, and in the settlement of details Her Majesty's envoy will grant an indulgent consideration to the wishes and necessities of the Central American governments when they are compatible with the safety and the welfare of those native tribes which have previously enjoyed the protection of the British crown.

3. The regulation of the frontier of British Honduras will be effected by negotiation with the Government of Guatemala. Her Majesty's Government trusts to obtain from this republic a recognition of limits, which, if we may judge from previous communication on this subject, may be accepted in a spirit of conciliation if not with absolute approval by the President.

Such is, in outline, the basis of the negotiation committed to Sir William Ouseley, as far as regards the construction and execution of the provisions of the Clayton-Bulwer treaty. The interpretation of that instrument thus practically sanctioned by Her Majesty's Government may not strictly coincide with that which is adopted, no doubt in perfect sincerity, by the United States; but the present resolution of Her Majesty's Government involves no slight relaxations of the sense in which, in equal good faith, the engagements of 1850 were contracted by Great Britain. It is hoped that the concessions of Her Majesty's Government will be met in a similar temper by the Government of the United States, that the mission of Sir William Ouseley will be regarded with benevolence, and that, if successfully accomplished, its results will be embraced as an honorable compromise of contending opinions, and as a definitive settlement of those disputed points which have so long attracted the anxious attention of our respective governments.

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NAPIER.

52.—*President Buchanan's message to Congress, December* 8, 1857.

[Extract.]

The diplomatic difficulties which existed between the Government of the United States and that of Great Britain at the adjournment of the last Congress, have been happily terminated by the appointment of a British minister to this country, who has been cordially received.

Whilst it is greatly to the interest, as I am convinced it is the sincere desire, of the governments and people of the two countries to be on terms of intimate friendship with each other, it has been our misfortune almost always to have had some irritating, if not dangerous, outstanding question with Great Britain.

Since the origin of the government we have been employed in negotiating treaties with that power, and afterwards in discussing their true intent and meaning. In this respect the convention of April 19, 1850, commonly called the Clayton and Bulwer treaty, has been the most unfortunate of all; because the two governments place directly opposite and contradictory constructions upon its first and most important article. Whilst in the United States, we believed that this treaty would place both powers upon an exact equality by the stipulation that neither will ever "occupy, or fortify, or colonize, or assume or exercise any dominion" over any part of Central America, it is contended by the British Government that the true construction of this language has left them in the rightful possession of all that portion of Central America which was in their occupancy at the date of the treaty; in fact, that the treaty is a virtual recognition on the part of the United States of the right of Great Britain, either as owner or protector, to the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, together with the adjacent Bay Islands, except the comparatively small portion of this between the Sarstoon and Cape Honduras. According to their construction, the treaty does no more than simply prohibit them from extending their possessions in Central America beyond the present limits. It is not too much to assert, that if in the United States the treaty had been considered susceptible of such a construction, it never would have been negotiated under the authority of the President, nor would it have received the approbation of the Senate. The universal conviction in the United States was, that when our Government consented to violate its traditional and time-honored policy, and to stipulate with a foreign government never to occupy or acquire territory in the Central American portion of our continent, the consideration for this sacrifice was that Great Britain should, in this respect, at least, be placed in the same position with ourselves.

Whilst we have no right to doubt the sincerity of the British Government in their construction of the treaty, it is at the same time my deliberate conviction that this construction is in opposition both to its letter and its spirit.

Under the late administration negotiations were instituted between the two governments for the purpose, if possible, of removing these difficulties; and a treaty having this laudable object in view was signed at London on the 17th October, 1856, and was submitted by the President to the Senate on the following 10th of December.

Whether this treaty, either in its original or amended form, would have accomplished the object intended without giving birth to new and embarrassing complications between the two governments, may perhaps

be well questioned. Certain it is, however, it was rendered much less objectionable by the different amendments made to it by the Senate.

The treaty, as amended, was ratified by me on the 12th March, 1857, and was transmitted to London for ratification by the British Government. That government expressed its willingness to concur in all the amendments made by the Senate, with the single exception of the clause relating to Ruatan and the other islands in the Bay of Honduras. The article in the original treaty, as submitted to the Senate, after reciting that these islands and their inhabitants—

having been by a convention bearing date the 27th day of August, 1856, between Her Britannic Majesty and the Republic of Honduras, constituted and declared a free territory under the sovereignty of the said Republic of Honduras—

stipulated that—

the two contracting parties do hereby mutually engage to recognize and respect in all future time the independence and rights of the said free territory as a part of the Republic of Honduras.

Upon an examination of this convention between Great Britain and Honduras of the 27th August, 1856, it was found that, whilst declaring the Bay Islands to be "a free territory under the sovereignty of the Republic of Honduras," it deprived that republic of rights without which its sovereignty over them could scarcely be said to exist. It divided them from the remainder of Honduras, and gave to their inhabitants a separate government of their own, with legislative, executive, and judicial officers, elected by themselves. It deprived the government of Honduras of the taxing power in every form, and exempted the people of the islands from the performance of military duty, except for their own exclusive defense. It also prohibited that republic from erecting fortifications upon them for their protection, thus leaving them open to invasion from any quarter; and, finally, it provided "that slavery shall not at any time hereafter be permitted to exist therein."

Had Honduras ratified this convention, she would have ratified the establishment of a state substantially independent within her own limits, and a state at all times subject to British influence and control. Moreover, had the United States ratified the treaty with Great Britain in its original form, we should have been bound "to recognize and respect in all future time" these stipulations to the prejudice of Honduras. Being in direct opposition to the spirit and meaning of the Clayton and Bulwer treaty, as understood in the United States, the Senate rejected the entire clause, and substituted in its stead a simple recognition of the sovereign right of Honduras to these islands, in the following language:

The two contracting parties do hereby mutually engage to recognize and respect the islands of Ruatan, Bonaco, Utila, Barbaretta, Helena, and Morat, situate in the Bay of Honduras, and off the coast of the Republic of Honduras, as under the sovereignty and as part of the said Republic of Honduras.

Great Britain rejected this amendment, assigning as the only reason that the ratifications of the convention of the 27th August, 1856, between her and Honduras, had not been "exchanged, owing to the hesitation of that government." Had this been done, it is stated that "Her Majesty's Government would have had little difficulty in agreeing to the modification proposed by the Senate, which then would have had, in effect, the same signification as the original wording." Whether this would have been the effect; whether the mere circumstance of the exchange of the ratifications of the British convention with Honduras prior, in point of time, to the ratification of our treaty with Great Britain

would "in effect" have had "the same signification as the original wording," and thus have nullified the amendment of the Senate, may well be doubted. It is, perhaps, fortunate that the question has never arisen.

The British Government, immediately after rejecting the treaty as amended, proposed to enter into a new treaty with the United States, similar in all respects to the treaty which they had just refused to ratify, if the United States would consent to add to the Senate's clear and unqualified recognition of the sovereignty of Honduras over the Bay Islands, the following conditional stipulation:

> Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain, by which Great Britain shall have ceded, and the Republic of Honduras shall have accepted the said islands, subject to the provisions and conditions contained in such treaty.

This proposition was, of course, rejected. After the Senate had refused to recognize the British convention with Honduras of the 27th August, 1856, with full knowledge of its contents, it was impossible for me, necessarily ignorant of "the provisions and conditions" which might be contained in a future convention between the same parties, to sanction them in advance.

The fact is, that when two nations like Great Britain and the United States, mutually desirous, as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the Isthmus.

Whilst entertaining these sentiments, I shall nevertheless no refuset to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine.

53.—*Lord Napier to General Cass.*

WASHINGTON, *February* 15, 1858.

SIR: On the 30th of November last I had the honor to convey to you, under the instructions of Her Majesty's Government, a proposal to submit the controverted points in the treaty of 1850, respecting Central American affairs, to the free arbitration of any European power which the Government of the United States should prefer to select for that office. In a separate note, under the same date, I imparted to the Government of the United States an outline of the instructions under which Sir William Gore Ouseley has been charged to proceed on a special mission to the Central American republics, with a view to the settle-

ment, by direct negotiation with those states, of the questions which the correspondence of last year in London had failed to adjust. Something in the nature of an alternative was thus offered to the American cabinet. Should the expedient of arbitration be adopted, a great portion of Sir William Ouseley's duty would be transferred to other agencies. Should arbitration be declined it was hoped that the efforts of Her Majesty's envoy would result in a settlement agreeable to the United States, inasmuch as in essential points it would carry the treaty of 1850 into operation in a manner practically conformable to the American interpretation of that instruction.

The note which I had the honor of addressing to you, in reference to the mission of Sir W. Ouseley, has received the official sanction of the Earl of Clarendon, and may therefore be regarded as an authoritative exposition of the intentions of Her Majesty's Government. In that communication, however, I indicated that two obstacles had arisen which might possibly modify the resolutions of Her Majesty's Government: first, the cotemporary negotiation of a convention for the protection of the transit route between the Government of the United States and that of Nicaragua; and secondly, the invasion of the Nicaraguan territory by a band of adventurers, who were engaged in an attempt to subvert the lawful government recognized by Great Britain. The impediments to which I alluded do not now exist.

In the treaty contemplated between the United States and Nicaragua, Her Majesty's Government do not see any obstacle in the realization of their designs committed to the management of Sir William Ouseley, while the projects of Walker and his confederates have been arrested by the interposition of the United States Navy, and we may hope definitively extinguished by the reprobation expressed, and the measures adopted by the President of the United States.

Satisfied in respect to the relations between the Government of the United States and Nicaragua, and relieved of the apprehensions raised by the renewed disturbances of the peace of Central America, Her Majesty's Government are prepared, if necessary, to sanction the departure of Sir William Ouseley on his mission and the execution of his instructions in the most conciliatory spirit.

Her Majesty's Government have, however, received no reply to their proposal for arbitration, a measure which they still regard as embodying the most unexceptionable method for the settlement of existing difficulties.

In requesting to be informed of the definitive resolution of the United States Government on this point, I am enabled to add that, if their determination should be an adverse one, Her Majesty's Government would give a friendly consideration to any observations which you may be disposed to offer on the objects of the mission intrusted to Sir William Ouseley.

I have, &c.,

NAPIER.

54.—*Lord Napier to Lord Malmesbury.*

No. 56.] WASHINGTON, *March* 22, 1858. (Received April 5.)

MY LORD: The overtures made by Her Majesty's late cabinet to the Government of the United States for the adjustment of pending controversies in Central America are known to your lordship from the cor-

respondence between the foreign office and Her Majesty's legation on this subject.

Those proposals comprise an alternative submitted to the selection of the American Government. Her Majesty's Government have offered to refer all the controverted points in the treaty of 1850 to the free arbitration of any European power, or, if more agreeable to the United States, they design to adjust the matters under discussion by negotiation with the Isthmus republics, to which, through the medium of Sir William Ouseley's mission, they are prepared to make such concessions as would carry the treaty of 1850 into operation in the most important particulars, according to the construction placed upon that instrument by the cabinet of Washington.

These modes of settlement both involve the maintenance of the Clayton-Bulwer treaty in its essential principle, viz, the neutrality of the Central American region, the exclusion of the contracting parties from territorial acquisition in a country which, from its configuration and position, possesses a common and momentous interest to the maritime powers.

The conciliatory inclinations of Her Majesty's Government have, however, not stopped here. Prompted by an impression, derived from many sources, that the obligations of the Clayton-Bulwer treaty were repugnant to the people of the United States, and influenced, no doubt, by the declaration of the President in his late message to Congress, in which he intimates a desire for the amicable dissolution of that convention, the Earl of Clarendon authorized me to inform General Cass that Her Majesty's Government would not decline the consideration of a proposal for the abrogation of the treaty by mutual concert. An official character was not given to this communication, because the recent overtures of Her Majesty's Government are still under the consideration of the President, and because it seems most natural that the proposal for the repeal of the treaty should emanate from the party to which we are told it has been onerous and unacceptable.

I have, accordingly, on two occasions informed General Cass that if the Government of the United States be still of the same mind, and continue to desire the abrogation of the treaty of 1850, it would be agreeable to Her Majesty's Government that they should insert a proposal to that effect in their reply to my note respecting arbitration, and to that in which I explained the character and motives of the mission intrusted to Her Majesty's commissioner in Central America.

Some conversation ensued regarding the manner in which the dissolution of the treaty should be effected, and the condition by which it might be accompanied, and on these topics I have held the following language, premising that the views expressed were altogether spontaneous and personal, for I had no information of the intentions of Her Majesty's Government beyond the bare fact that they would entertain a proposal to cancel the engagements of 1850, emanating from the United States.

I stated that, in my opinion, the treaty in question could only be repealed by a new treaty in the usual forms, and that it might be desirable that such a treaty should not be restricted to a single article annulling its predecessor. Both for considerations of decency and policy, I advocated the insertion of stipulations involving an expression of a common policy in Central America, and the disavowal of any exclusive or monopolizing projects on either side. I said that I thought a treaty might be framed of three articles.

The first should declare the desire of the contracting parties to en-

courage and protect the organization of transit routes in the interoceanic region, and bind those parties never to negotiate for any rights or privileges of transit with the Central American states of a preferential or exclusive character, to which other nations might not, by negotiation, be equally admitted, establishing thus the principle of an equal enjoyment of those avenues of trade for all the countries of the world.

The second article might recognize the jurisdiction of the transit route by the San Juan River, as being vested in the Government of Nicaragua. This had been already avowed by the United States in a treaty negotiated with that republic. It had not been definitively affirmed by Great Britain, and might seem to clash with the claims of the King of Mosquito to territorial possession or authority in those parts. I thought, however, that in regard to the views lately expressed by Her Majesty's Government in the course of recent negotiations, in consideration of the necessity of obtaining a suitable treaty with Nicaragua, and for the purpose of placing themselves in harmony with the course pursued by the United States, Her Majesty's Government might, on this head, accede to an article which would practically restrict their protectorate in Mosquito, and prevent the imputation of any interference on their part with the territory traversed by the river, and therefore by the transit route.

Finally, I suggested that Article III of the treaty should simply declare the provisions of the treaty of 1850 to be void and of no effect. I added that the question of future territorial acquisition in Central America would thus be thrown open to the United States; that Her Majesty's Government, on the other hand, would retain the colony of Honduras in the proportions which might be given to it by treaty arrangements with Guatemala, and that the Bay Islands would remain attached to the British Crown. Indeed, I affirmed, still as a personal opinion, but of the most positive character, that in case of the dissolution of the Clayton-Bulwer treaty, the Bay Islands would not be relinquished by Her Majesty's Government. I felt bound to make this statement, having observed in some quarters an impression that Her Majesty's Government might be disposed not only to annul the treaty, thus opening a path for the eventual annexation of the Isthmus to the Federal Union, but to give up the Bay Islands as well; a notion altogether unfounded in any intimation which has hitherto reached me from the foreign office, and which could not be reconciled in my opinion to the interests of England.

In reply to my observations the Secretary of State remarked that he would reserve the subject for the consideration of his government. He added, as a personal impression, that he was in favor of a naked, unqualified repeal of the Clayton-Bulwer treaty without conditions, and that such a repeal should be effected in the form of a treaty, though he alluded, with a certain deprecation, to the contingency of the dissolution of the treaty by an act of Congress. He also thought, however, that the matters at issue might be adjusted through the mission of Sir William Ouseley.

I was most careful to remark throughout that the opinions I enunciated with reference to the conditions under which the treaty should be abrogated were exclusively my own; and that it belonged to the Government of the United States to offer a suggestion for the purpose in question, as the overture should proceed from them. The only point on which I spoke with determination was that of the surrender of the Bay Islands, in which I trust that I have not misinterpreted the senti-

ments of Her Majesty's Government. On the whole, I did not think that my informal communication was as favorably received as the previous declarations of the President and the Secretary of State on this subject might have warranted me in expecting.

I have, &c.,

NAPIER.

The EARL OF MALMESBURY.

55.—*Lord Malmesbury to Lord Napier.*

No. 58.] FOREIGN OFFICE, *April* 8, 1858.

MY LORD: I have received your lordship's dispatch of the 22d ultimo, reporting your conversation with General Cass upon the disposition of Her Majesty's Government to concur in a proposal to set aside the Clayton-Bulwer treaty, and I have to acquaint your lordship that Her Majesty's Government entirely approve of your having placed on record, by delivering to General Cass copies of those dispatches, that they were ready to abrogate that treaty.

In this state of things it will be proper that your lordship should abstain from any further discussion on that point, leaving the Government of the United States to appreciate as they may the announcement which you have thus made of the readiness of Her Majesty's Government to concur with the view of the subject expressed in the President's message; and your lordship, without further adverting to the question of abrogation, will only press for an early and decided answer to the proposal respecting arbitration which you have submitted to the Government of the United States. You will evince no eagerness for the acceptance of that proposal; neither will you exhibit anxiety for the abrogation of the treaty; and if the proposal is rejected you will not officially bring forward as the alternative the abrogation of the Clayton treaty, but announce your intention to report home and wait for instructions.

Her Majesty's Government, if the initiative is still left to them by the unwillingness of the United States themselves to propose abrogation, desire to retain full liberty as to the manner and form in which any such proposal shall be laid on their behalf before the cabinet at Washington; but, without pronouncing any decided opinion at the present moment, I think it right to point out to your lordship that the effect of such an article as that suggested in your dispatch as the second might be to perpetuate an entanglement with the Government of the United States, and to place that government in a position to question or control the free action of Her Majesty's Government in everything that relates to Central America. The Clayton-Bulwer treaty has been a source of unceasing embarrassment to this country and Her Majesty's Government, if they should be so fortunate as to extricate themselves from the difficulties which have resulted from it, will not involve themselves, directly or indirectly, in any similar difficulties for the future.

Her Majesty's Government would have no objection to enter with the United States into a self-denying engagement, such as that suggested in your first article, by which both parties should renounce all exclusive advantage in the use of any of the interoceanic routes, and should bind themselves each to the other, not to interfere with free transit. Such an article would be a suitable substitute for the Clayton-Bulwer treaty,

for it would secure, as regards the contracting parties, the avowed object of that treaty—the freedom of interoceanic communication.

But beyond this Her Majesty's Government, as at present advised, are not prepared to contract any engagement as a substitute for the Clayton-Bulwer treaty, and from the abrogation of that compact, if it should take place, they will hold themselves as free to act in regard to Central America in the manner most conducive to the advancement of British interests and the fulfillment of British obligations as if the treaty had never been concluded.

Your lordship was, therefore, perfectly right in using decided language, such as that reported in your dispatch respecting the Bay Islands, and whenever the subject of the abrogation of the Clayton-Bulwer treaty is mooted in your presence, you will make it perfectly clear to the Government of the United States that to abrogate the treaty is to return to the *status quo ante* its conclusion in 1850; that Her Majesty's Government have no kind of jealousy respecting American colonization in Central America, which, indeed, it would help to civilize; and that we neither ask nor wish for any exclusive privileges whatever in those regions.

I am, &c.

MALMESBURY.

Lord NAPIER.

56.—*Mr. Cass to Mr. Lamar.*

[Extract.]

No. 9.] DEPARTMENT OF STATE,
Washington, July 25, 1858.

SIR: * * * These great avenues of inter-communication are vastly interesting to all commercial powers, and all may well join in securing their freedom and use against those dangers to which they are exposed from aggressions or outrages, originating within or without the territories through which they pass.

But the establishment of a political protectorate by any of the powers of Europe over any of the independent States of this continent, or, in other words, the introduction of a scheme or policy which would carry with it a right to interfere in their concerns, is a measure to which the United States have long since avowed their opposition, and which, should the attempt be made, they will resist by all the means in their power.

The reasons for the attitude they have assumed have been fully promulgated, and are everywhere well known. There is no need upon this occasion to recapitulate them. They are founded on the political circumstances of the American Continent, which has interests of its own, and ought to have a policy of its own, disconnected from many of the questions which are continually presenting themselves in Europe, concerning the balance of power, and other subjects of controversy arising out of the condition of its States, and which often find their solution or their postponement in war. It is of paramount importance to the States of this hemisphere that they should have no entangling union with the powers of the Old World; a connection which would almost necessarily make them parties to wars having no interest in them, and which would often involve them in hostilities with the other American States, contiguous or remote. The years which have passed by since this principle of separation was first announced by the United States have served still

more to satisfy the people of this country of its wisdom and to fortify their resolution to maintain it happen what may.

The progress of events has rendered the interoceanic routes across the narrow portions of Central America vastly important to the commercial world, and especially to the United States, whose possessions extending along the Atlantic and Pacific coasts demand the speediest and easiest modes of communication. While the just rights of sovereignty of the States occupying this region should always be respected, we shall expect that these rights will be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted, in a spirit of Eastern isolation, to close these gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them, and that they choose to shut them, or, what is almost equivalent, to encumber them with such unjust regulations as would prevent their general use. The United States do not seek either the control or the exclusive use of these routes. They desire that the advantages should be equally common to all nations. Nor do they claim to interfere with the local governments in the determination of the questions connected with the opening of the routes, and with the persons with whom contracts may be made for that purpose. What they do desire, and mean to accomplish, is that the great interests involved in this subject should not be sacrificed to any unworthy motive, but should be guarded from abuse, and that when fair contracts are fairly entered into with American citizens, they should not be wantonly violated.

Other nations will no doubt pursue the same course in relation to their citizens or subjects who may have similar interests.

But besides these general considerations applicable to this subject, there are others which impose additional obligations upon these Isthmian Powers, and which bear with equal force upon their relations with other nations. Several of these powers, and Nicaragua especially, have in fact, by their public proceedings invited the co-operation of the capital, and industry, and enterprise of the world in order to open these lines of communication. The citizens of the United States have contributed their full share towards the accomplishment of the enterprise, and this government intends to use the means in its power to protect them in the enjoyment of their rights. The good faith of Nicaragua has been committed, and large sums have been expended looking to its faithful observance.

A paper has recently appeared in the public journals, to which I have already referred, purporting to be a contract between the governments—the Presidents rather—of Costa Rica and of Nicaragua and M. Belly, a French citizen, and his associates, constituting a new canal-route company, and providing for its operations. Nothing is known here officially of the authenticity of this paper, but it carries with it a strong probability that it is genuine, and presuming it to be so it furnishes you with an occasion to lay before these governments the views of the United States respecting their own interests and the interests of their citizens involved in the contracts for opening transit routes. So far as regards the action of Costa Rica, the President adheres to the views laid down in the instructions to our special agent, Mr. Jones, a copy of which has been communicated to those governments, and also furnished to yourself. And the United States, while they interpose no objection to an amicable adjustment by those republics of the question of their bound-

ary line, will recognize no arrangement which interferes with the existing transit interests as insisted on in those instructions.

The United States no more claim for their citizens an exclusive right to form contracts for opening these transit routes than they claim for them the exclusive use of the routes when the work is completed. Their construction is a fair object of competition for the citizens and subjects of all other powers. The work is as open to M. Belly and his associates as to any other enterprising person. There are but two points connected with this matter which have any interest for the United States, or which would justify their intervention. The first is, that no contract with M. Belly, or with any one, indeed, should interfere with engagements previously existing with American citizens, but that all such engagements should be preserved inviolate; and the second is, that the regulations and conditions of the grant should be such as to render the routes free and safe to all nations, but controlled by no one, and upon moderate and reasonable terms. It would be equally impolitic and unjust for these governments, in a desire to make those great undertakings profitable to themselves, without furnishing any contribution towards their construction, to levy onerous charges upon the persons and property destined to pass over them, and by this means interpose serious obstacles to their general use. These local governments should look to the vast benefits which these enterprises will bring to the countries through which they pass, and not strive by excessive impositions to make them sources of revenue, and defeat, by this ill-judged measure, the very object sought to be obtained.

It is not necessary that I should enter into a detailed examination of M. Belly's contract. There are physical and financial obstacles, as well as political ones, in the way of its execution, some of which can hardly be overcome. I shall, therefore, only advert to one of the provisions, rather with a view to the future proceedings of these governments than from any practical bearing it will have in this case.

But previously to doing so I will bring to your notice one extraordinary stipulation which it could scarcely have been expected would be acceptable to the United States, and which must have been entered into in the anticipation of their objections to it. Those objections are insurmountable.

This obnoxious arrangement provides that the French Government shall have the right to keep two ships of war stationed in the waters of Lake Nicaragua for the entire duration of the works.

I am persuaded that this proposition will meet no favor from the French Government, and that its name has been introduced here unwarrantably and without its knowledge. The equality and security of these interoceanic routes constitute a great portion of their value to the world, and all commercial powers are interested in their maintenance. An exclusive right in one of these powers to exercise a permanent armed intervention would give serious cause of dissatisfaction to all the others, and the United States freely avow their determination to oppose such a measure should the Governments of Costa Rica and Nicaragua attempt to carry it into effect.

But there are additional conditions applicable to this contract with M. Belly and to other contracts for similar purposes entered into by the Government of Nicaragua which commend themselves to the Government of the United States, and will not be disregarded. There are several American citizens who, with different interests, claim to have formed engagements with the proper authorities of Nicaragua for opening and using the transit routes, with various stipulations defining their

privileges and duties, and some of these contracts have already been in operation. This government has neither the authority nor the disposition to determine the conflicting interests of these claimants; but what it has the right to do, and what it is disposed to do, is to require that the Government of Nicaragua should act in good faith towards them, and should not arbitrarily and wrongfully divest them of rights justly acquired and solemnly guaranteed. The United States believe it to be their duty, and they mean to execute it, to watch over the persons and property of their citizens visiting foreign countries, and to intervene for their protection when such action is justified by existing circumstances and by the law of nations. Wherever their citizens may go through the habitable globe, when they encounter injustice they may appeal to the government of their country, and the appeal will be examined into with a view to such action in their behalf as it may be proper to take. It is impossible to define in advance and with precision those cases in which the national power may be exerted for their relief, or to what extent relief shall be afforded. Circumstances as they arise must prescribe the rule of action. In countries where well-defined and established laws are in operation, and where their administration is committed to able and independent judges, cases will rarely occur where such intervention will be necessary. But these elements of confidence and security are not everywhere found, and where that is unfortunately the case the United States are called upon to be more vigilant in watching over their citizens, and to interpose efficiently for their protection when they are subjected to tortious proceedings, by the direct action of the government, or by its indisposition or inability to discharge its duties.

But there is yet another consideration which calls for the attention of this government. These contracts with their citizens have a national importance. They affect not ordinary interests merely, but questions of great value, political, commercial, and social, and the United States are fully justified by the considerations already adverted to in taking care that they are not wantonly violated, and the safe establishment of an interoceanic communication put to hazard or indefinitely postponed. The course of the Government of Nicaragua with relation to these engagements contains nothing in it reassuring, for the future contracts duly executed with all the forms of law, carrying with them important vested rights, have been arbitrarily set aside by executive decrees—a mode of proceeding not recognized in the contracts themselves—and without resorting to the action of judicial tribunals. The facts in dispute have been unjustly assumed, and the hand of violence has been laid upon solemn engagements which ought to have found their security in the good faith of the government. I am not aware that in any case has the forfeitnre of a contract been declared in any other way than by an arbitrary executive decree. This is a state of things to which no nation is bound to submit. It is vain to expect that the means of men and money required from other nations for the execution of these works will be furnished in the face of such manifestations of bad faith. Without confidence these great enterprises must fail; nor is it probable that one of them requiring a heavy outlay would now be undertaken and completed without some surer guarantee for their protection than would be furnished by the engagements of these Central American States. The danger of violation is too well known and appreciated to justify the expectation of the investment of capital under such unpropitious circumstances.

So long as a pecuniary object is supposed to furnish a motive for re-

scinding existing contracts and forming new ones, without any regard to vested rights, no progress will be made in the construction of canals or of other permanent and expensive works for transportation.

The United States, acting in behalf of their citizens, object to this system of confiscation, and they do not doubt but that they will have the concurrence of all other powers who have similar interests in these vastly important measures. What the United States demand is, that in all cases where their citizens have entered into contracts with the proper Nicaraguan authorities, and questions have arisen, or shall arise, respecting the fidelity of their execution, no declaration of forfeiture, either past or to come, shall possess any binding force unless pronounced in conformity with the provisions of the contract, if there are any, or if there is no provision for that purpose, then unless there has been a fair and impartial investigation in such a manner as to satisfy the United States that the proceeding has been just and that the decision ought to be submitted to.

Without some security of this kind, this government will consider itself warranted, whenever a proper case arises, in interposing such means as it may think justifiable, in behalf of its citizens who may have been or who may be injured by such unjust assumption of power.

* * * * * * *

I am, &c.,

LEWIS CASS.

57.—*Mr. Cass to Lord Napier.*

DEPARTMENT OF STATE,
Washington, November 8, 1858.

MY LORD: I have had the honor to receive the copy which your lordship did me the favor to send me of Lord Malmesbury's dispatch to your lordship of August 18, in reference to Sir William Ouseley's mission, and have submitted it to the consideration of the President. From the statement of Lord Malmesbury that the British Government has no remaining alternative but that of "leaving the Cabinet of Washington to originate any further overtures for an adjustment of these controversies," it is quite obvious that the position of the President on this subject is not correctly understood by Her Majesty's Government. Since the announcement by your lordship in October, 1857, of Sir William Ouseley's special mission, the President has awaited not so much any new proposition for the adjustment of the Central American questions as the statement in detail which he had been led to expect of the method by which Sir William Ouseley was to carry into effect the previous proposition of the British Government. To make this plain, your lordship will pardon me for making a brief reference to what has occured between the two governments in respect to Central America since the ratification of the Clayton-Bulwer treaty of 1850.

While the declared object of that convention had reference to the construction of a ship-canal, by the way of San Juan and the lakes of Nicaragua and Managua, from the Atlantic to the Pacific Oceans, yet it avowed none the less plainly a general principle in reference to all practicable communications across the isthmus, and laid down a distinct policy by which the practical operation of this principle was likely to be kept free from all embarrassment. The principle was that the interoceanic routes should remain under the sovereignty of the states through which

they ran, and be neutral and free to all nations alike. The policy was, that in order to prevent any government outside of those states from obtaining undue control or influence over these interoceanic transits, no such nation should "erect or maintain any fortifications commanding the same, or in vicinity thereof, or should occupy or fortify or colonize or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."

So far as the United States and Great Britain were concerned, these stipulations were expressed in unmistakable terms, and in reference to other nations it was declared that the contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other. At that time the United States had no possessions whatever in Central America and exercised no dominion there. In respect to this government, therefore, the provisions of the first article of the treaty could operate only as a restriction for the future, but Great Britain was in the actual exercise of dominion over nearly the whole eastern coast of that country, and in relation to her this article had a present as well as a prospective operation. She was to abandon the occupancy which she already had in Central America, and was neither to make acquisitions or erect fortifications or exercise dominion there in the future. In other words, she was to place herself in the same position, with respect to possessions and dominion in Central America, which was to be occupied by the United States, and which both the contracting parties to the treaty engaged that they would endeavor to induce other nations to occupy. This was the treaty as it was understood and assented to by the United States, and this is the treaty as it is still understood by this government. Instead, however, of giving effect to it in this sense, the British Government proceeded in 1851, only a few months after the signature of the treaty, to establish a new British colony in Central America under the name of the "Bay Islands"; and when this government expressed its great surprise at this proceeding and at the failure of Great Britain to comply with the terms of the convention, Her Majesty's Government replied that the Islands already belonged to Great Britain at the date of the treaty, and that the convention, in their view of it, interfered with none of their existing possessions in Central America, but was wholly prospective in its character and only prevented them from making new acquisitions. It is unnecessary to do more than simply refer to the earnest and able discussions which followed this avowal, and which show more and more plainly the opposite constructions which were placed upon the treaty by the two governments.

In 1854 it was sought to reconcile these constructions and to terminate the Central American questions by the convention which was signed at London by the American minister and Lord Clarendon, usually designated the Dallas-Clarendon treaty. The terms of this treaty are, doubtless, familiar to your lordship.

It provides—

1. For the withdrawal of the British protectorate over the Mosquito Indians, and for an arrangement in their behalf upon principles which were quite acceptable to the United States.

2. It regulated the boundaries of the Belize settlements within which Great Britain claimed to exercise certain possessory rights upon terms which, although not wholly acceptable to this government, were yet in a spirit of generous concession ratified by the United States Senate.

3. It provided for a cession of the Bay Islands to Honduras (in the

opinion of this government their rightful proprietor), but this concession was made dependent upon an unratified treaty between Great Britain and Honduras, whose terms were not officially known to this government, but which, so far as they had unofficially appeared, were not of a satisfactory character.

The Senate, therefore, in ratifying the Dallas-Clarendon treaty, felt obliged to amend it by striking out all that part of it which contemplated the concurrence of this government in the treaty with Honduras, and simply providing for a recognition by the two governments of the sovereign right of Honduras to the islands in question. Great Britain found itself unable to concur in this amendment, and the Dallas-Clarendon treaty, therefore, fell to the ground. It was clear, however, that the objections of the Senate to the Honduras treaty were not deemed unreasonable by Her Majesty's Government, because, in your lordship's interview with the President on the 22d October, 1857, your lordship "allowed that the articles establishing the administrative independence of the islands might have been larger than was necessary." "I had observed," you added, "the same impression in the correspondence of Mr. Wyke, Her Majesty's chargé d'affaires at Guatemala, who seemed to admit that a greater participation in the internal government might be granted to the authorities of Honduras," and you made "no doubt that Her Majesty's Government would entertain any reasonable suggestions which might be offered to them in that sense."

And again, in your lordship's note to this department of November 30, 1857, you recognize the same probability "that the intervention of the Honduras Government in the administration of the islands may have been more limited than was necessary or even advisable."

Such was doubtless the opinion of Honduras, for as long ago as May 10, 1857, I was informed by your lordship that the treaty remained unratified "owing to some objections on the part of the government of Honduras," and that "Her Majesty's Government does not expect that the treaty in its present shape will be definitely sanctioned by that republic."

In view of the objectionable provisions of this convention with Honduras, and of its failure to be sanctioned by that republic, your lordship, by the authority of Lord Clarendon, informed me on the 6th of May, 1857, that Her Majesty's Government was prepared to sanction a new treaty, in respect to the Central American questions, which should in all respects conform to the Dallas-Clarendon treaty, as ratified by the Senate, except that to the simple recognition in the Senate's substitute for the second separate article of the sovereignty of Honduras over the Bay Islands there was to be added the following passage: "Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain by which Great Britain shall have ceded and the Republic of Honduras shall have accepted the said islands subject to the provisions and conditions contained in said treaty." While this condition contemplated a new treaty with Honduras which might possibly avoid the objectionable provisions of the old one, yet it was quite impossible for the United States to become a party, either directly or indirectly, to a convention which was not in existence, or whose terms and conditions it could neither know nor control. For this reason I informed your lordship in my communication of May 29 that your lordship's proposition was declined by this government.

The attempts to adjust the Central American questions by means of a supplementary treaty having thus failed of success, and the subject not being of a character, in the opinion of the United States, to admit of

their reference to arbitration, the two governments were thrown back upon their respective rights under the Clayton-Bulwer treaty. While each government, however, had continued to insist upon its own construction of this treaty, there was reason to believe that the embarrassments growing out of their conflicting views of its provisions might be practically relieved by direct negotiations between Her Majesty's Government and the states of Central America.

In this way it seemed possible that, without any injustice to those states, the treaty might be rendered acceptable to both countries as well as operative for the disinterested and useful purposes which it had been designed to serve. The President, therefore, was glad to learn from your lordship, on the 19th of October, 1857, that Her Majesty's Government had "resolved to dispatch a representative of authority and experience to Central America, to make a definitive settlement of all the matters with regard to which the United States and England were still at variance, and who would be instructed," as your lordship believed, "to carry the Clayton Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States, but to do so by separate negotiation with the Central American republics in lieu of a direct engagement with the Federal Government." This announcement could not fail to be received with satisfaction by the President, because it contemplated the substantial accomplishment of the very purposes in respect to the treaty which the United States had always had in view, and so long as these were accomplished he assured your lordship that "to him it was indifferent whether the concession contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States or to treaties between the former and the Central American republics; the latter method might, in some respects," he added, "be even more agreeable to him, and he thought it would be more convenient to Her Majesty's Government, who might, with greater facility, accede to the claims of the weaker party."

It is unnecessary to refer at length to what was said in this conversation, or to a second one on the same subject which your lordship had with the President on the evening of October 23; but there can be no doubt that in both interviews the expected mission of Sir William Ouseley (who it was understood had been selected as the plenipotentiary referred to), in connection with what your lordship indicated as his probable instructions, was favorably regarded by the President. So much was this the case, that he gave your lordship his full assurance that should your lordship's announcement be confirmed by any official information such as he could use, he would change that part of his message which related to Great Britain, would encourage no attempt in Congress to annul the treaty while the mission was in progress, and nothing would give him greater pleasure, he said, "than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."

At the close of the second interview, he even went so far as to remark, in reference to the extended boundary claimed by Great Britain for the Belize (to which he had ever objected), that he could take no absolute engagement in this matter; but he would say this much, "that if the Bay Islands were fairly and handsomely evacuated, such a measure would have a great effect with him, and with the American people, in regard to the settlement of the other points at issue."

Sir William Ouseley arrived in Washington about the middle of No-

vember, and on the 30th of November I received from your lordship an official statement in outline of the purposes of his mission.

On the 5th December, your lordship inclosed to me a copy of Lord Clarendon's dispatch of November 20, in which your lordship's previous statement was substantially confirmed, and in which it was further stated that "Sir William Ouseley, during his visit to Washington, will, in pursuance of his instructions, have explained with the utmost frankness to the Government of the United States the nature of the instructions with which he is furnished, and your lordship, as the duly accredited organ of Her Majesty's Government, will have given similar explanations."

The objects of Sir William Ouseley's mission, as thus made known to the United States, were:

1. To provide for the transfer by Great Britain of the Bay Islands to the Government of Honduras; and in this transfer it was especially declared that the stipulations in the British treaty with Honduras were not to be rigidly adhered to. Sir William Ouseley, on the contrary, while requiring provisions to secure the vested rights of British subjects in the Bay Islands, was to be left at liberty to contract engagements with Honduras which should embody not only an unmistakable recognition of its sovereignty over these islands, but should allow of a more direct government and a more efficient protection over them by that republic than had been contained in the convention of 1856.

2. The second object of Sir William Ouseley's mission was the settlement of the question of the Mosquito protectorate with Nicaragua and Honduras. Whilst he was to provide for the compensation, the government, and the protection of the Mosquito Indians under the sovereignty of Nicaragua, this was to be done upon terms not less favorable than those which had received the approbation of the Senate in the Dallas-Clarendon treaty. In no degree was the Indian reserve to trespass on the territory applicable to transit purposes.

3. The regulation of the frontier of British Honduras was to be effected by negotiation with the Government of Guatemala. Her Majesty's Government trusted to obtain from that republic a recognition of limits "which, if we may judge from previous communications on the subject, may be accepted in a spirit of conciliation, if not with absolute approval, by the President."

Such were the overtures communicated by your lordship's note to this Department of November 30, and which were again referred to in Lord Clarendon's note to your lordship of November 20, of which you inclosed to me a copy in your lordship's note of December 5. Inasmuch as the announcement of Sir William Ouseley's mission, with the explanation by your lordship of its general purposes, had been received with much satisfaction by the President, there were some expressions in this note of Lord Clarendon's which it was not easy to understand; but which, nevertheless, did not materially change the general character of the overtures. It was still stated in that dispatch "that the objections entertained in the United States to the construction placed upon that treaty by the British Government are, as every impartial person must admit, in a fair way to be removed by the voluntary act of the latter; and while the objects of Sir William's mission continued to be mentioned in only general terms, it was yet added that during his visit to Washington he will, in pursuance of his instructions, have explained with the utmost frankness the nature of the instructions with which he is furnished, and your lordship, as the duly accredited organ of Her Majesty in the United States, will have given similar explanations."

The President did not hesitate, therefore, in his message to Congress, to refer to these overtures as having recently been made by the British Government in a friendly spirit, which he cordially reciprocated. He could do no more than this, whatever might be his hopes for the success of Sir William's mission, until he had received the further explanations concerning it which he had been led to expect, and which he was prepared to consider in the kindest and most respectful manner. The general remarks contained in the outline of November 30 must have been molded into some specific form, in order to enable this government to arrive at a practical decision upon the questions presented to it. This I understood to be the view of your lordship and Sir William Ouseley, as well as that of the President and this Department. Indeed, it was wholly in conformity with this view that Sir William Ouseley was understood to have called at Washington on his way to Central America. Had he proceeded directly to his destination, and there, by separate treaties with the Central American republics, given substantial effect to the Clayton-Bulwer convention, according to the general tenor of the American construction of that instrument, the Central American controversy would then have been fortunately terminated to the satisfaction of both governments. But since this government, in a spirit of comity, which the President fully appreciates, was asked to co-operate in accomplishing this result, it was surely not unreasonable that it should know specifically the arrangements which it was expected to sanction.

The general objects in view, we were acquainted with and approved, but there was no draft of a treaty, no form of separate article, no definition of measures. The Bay Islands were to be surrendered, but under what restrictions? The Dallas-Clarendon treaty was to be modified, but what were the modifications? The rights of British subjects and the interests of British trade were to be protected in Ruatan, but to what extent and by what conditions? Honduras was to participate more largely in the government of the Bay Islands than she was allowed to do by the convention of 1856, but how far was she to be restrained and what was to be her power?

These and other similar questions naturally arose upon the general overtures contained in your lordship's note of November 30, and seemed naturally enough to justify the hope which was entertained of some further explanation of these overtures. In all my conversations with your lordship on the subject of Sir William's mission, subsequent to the meeting of Congress, this expectation of some further and more definite communication concerning it was certainly taken for granted, and until time was given to receive such a communication, you did not press for any answer to your lordship's note of November 30. In the beginning your lordship seemed to think that some embarrassment or delay in prosecuting the mission might be occasioned by the expedition to Nicaragua which had been undertaken by General Walker, and by the Cass-Yrisarri treaty which had been negotiated with that republic by the United States; but the treaty was not disapproved by Her Majesty's Government and the expedition of Walker was promptly repressed, so that no embarrassment from these sources could be further apprehended. As the delay still continued, it was suggested by your lordship, and fully appreciated by me, that Her Majesty's Government was necessarily occupied with the affairs of Her Majesty's possessions in India, which then claimed its immediate attention to the exclusion naturally of business which was less pressing, and hence I awaited the expected instructions without any anxiety whatever. All this is precisely what your lordship very frankly describes in your lordship's communication to this

Department of April 12, 1858. "I addressed my government," your lordship says, "with a view to obtaining further explanations and instructions, and I informed you that it was not my desire to press for an official reply to the overtures of the Earl of Clarendon pending an answer from London."

The explanations, however, anticipated by your lordship and by myself were not received, and about three months after the arrival of Sir William at Washington you expressed to me your regret that you had held out expectations which proved unfounded and which had prompted delay, and then for the first time requested an answer to the proposals of Her Majesty's Government, and "especially to that part of them relating to arbitration." It was even then suggested that the answer was desired because it was thought to beappropriate as a matter of form and not because the explanations which had been waited for were deemed wholly unnecessary. "I overlooked something due to forms," is your lordship's language in the note of April 12, "in my anxiety to promote a clearer understanding, and I eventually learned in an official shape that Her Majesty's Government, following their better judgment, desired, before making any further communication, a reply to their overtures, and especially to that part of them referring to arbitration. Should the new proffer of arbitration be declined, it was clearly not supposed in your note of February 15 that this result would have any tendency to interrupt Sir William's efforts; but in that event it was hoped," you informed me, that these efforts "would result in a settlement agreeable to the United States, inasmuch as in essential points it would carry the treaty of 1850 into operation in a manner practically conformable to the American interpretation of that instrument."

On the 6th of April I replied to your lordship's note of February 15, with a very frank and full statement of the views of this government upon all the points to which your lordship had referred. The renewed offer of arbitration mentioned in a dispatch of Lord Clarendon was explicitly declined for the same reasons which had occasioned its rejection before, but an earnest hope was expressed for the success of Sir William Ouseley's mission, and I was instructed formally to request from your lordship those further explanations concerning it, which had been promised in Lord Clarendon's note of November 20, for which both your lordship and myself had waited for three months in vain, and which, up to this time, have never been furnished to the American Government. The disappointment which the President felt at some portions of the correspondence which had occurred, and especially at the failure of Her Majesty's Government to inform him more fully than it had done, on the subject of the mission, was communicated to your lordship without the least reserve, but in the purposes of that mission, so far as he understood them, I was authorized to say that he fully concurred, and to add his sincere hope that they might be successfully accomplished.

"The President," I informed you, "has expressed his entire concurrence in the proposal for an adjustment of the Central American questions, which was made to him by your lordship last October, and he does not wish that any delay or defeat of that adjustment shall be justly chargeable to this government. Since, however, he is asked to co-operate in the arrangement by which it is expected to accomplish it, it is essential that he should know with reasonable accuracy what those arrangements are." It was in the hope of this adjustment, as well as with a view to the serious consequences which might flow from a naked repeal of the Clayton-Bulwer treaty, that I made the observations on that subject which are contained in my letter to your lordship of April 6. No de-

mand for this abrogation, your lordship is well aware, had then been made by Her Majesty's Government; but your lordship had several times suggested to me that such an alternative, if proposed by the United States, would be respectfully considered by Great Britain, and in your lordship's belief might in some form or other be finally adopted. You informed me, however, at the same time that in that event Great Britain would not be inclined to surrender its possessions in Central America, and would certainly continue to occupy the Bay Islands. In reply to this announcement, I informed your lordship that since it is well known that the views of this government are wholly inconsistent with these pretensions, and that it can never willingly acquiesce in their maintenance by Great Britain, your lordship will readily perceive what serious consequences might follow a dissolution of the treaty, if no provision should be made at the same time for adjusting the questions which led to it.

"If, therefore," I added, "the President does not hasten to consider now the alternative of repealing the treaty of 1850, it is because he does not wish to anticipate the failure of Sir William Ouseley's mission, and is disposed to give a new proof to Her Majesty's Government of his sincere desire to preserve the amicable relations which now happily subsist between the two countries."

Having thus complied with your lordship's request, and given that formal reply to the overtures embraced in Sir William Ouseley's mission which was desired by Her Majesty's Government, I confidently expected to receive within a reasonable time these additional instructions which appeared to have been delayed for this reply. Such, doubtless, was the hope, also, of your lordship. "The discussion has been deferred," you informed me in your note of April 12, "but the interests at stake have probably not suffered." The results of the negotiation between Nicaragua and the United States are not yet disclosed, and it is probable that Sir William Ouseley may proceed to his destination with more advantage when the nature of those engagements is fully defined." "If the American Cabinet," you also said, "as may be inferred from your expressions, be well disposed toward Sir William Ouseley's mission, and will meet her Majesty's Government in a liberal spirit on matters of secondary moment, that mission may still conduct us to a happy termination." In further informing me that my communication would be transmitted to Her Majesty's Government, you added, "It remains with Her Majesty's Government to determine whether they can afford the more perfect information desired."

This was the state of the negotiation in April, 1858. The purposes of Sir William Ouseley's mission had been announced to the American Government and approved; reference had been made by Lord Clarendon to your lordship and Sir William Ouseley for further explanations; these explanations had been asked for from your lordship in repeated interviews; but your lordship had not received the necessary instructions to make them until a reply had been received to the general overtures embraced in your previous notes, and especially to that part of them relating to arbitration; this reply had been given, still approving the mission and rejecting the arbitration; and it had been sent to London for the consideration of Her Majesty's Government.

Under these circumstances, I need not describe to your lordship the surprise with which I received the copy of Lord Malmesbury's dispatch to your lordship, dated at Potsdam, August 18, which you were good enough to inclose to me. In this dispatch, instead of affording any more exact definition of the objects of Sir William Ouseley's mission, your

lordship is directed to inform me that Her Majesty's Government "have, in fact, nothing to add to the explanations given by Sir William and your lordship upon the subject." As no explanations whatever had been received from either Sir William or yourself since the communication of November 30, it is obvious that his lordship must labor under some misapprehension on this subject; and equally clear is it that when his lordship represents me as having declared in my note of the 6th of April that the Government of the United States could not agree to the abrogation of the Clayton-Bulwer treaty, that he has failed to appreciate fully the views of the United States in reference to that abrogation. The declaration in my note of April 6 was certainly not against any abrogation of the treaty, but against considering the expediency of abrogating it at that particular time, and until hopes were at an end for a successful termination of Sir William Ouseley's mission. This waiver of a discussion on the subject of abrogation, in deference to the purposes of that mission, indicated very clearly, it seems to me, how much was expected by this government from Sir William Ouseley's mission. Yet even these efforts Lord Malmesbury seems to regard as having been rejected by the United States, and Her Majesty's Government, he concludes, have no alternative but that of leaving to the Cabinet of Washington to originate any further overtures for an adjustment of these controversies.

Surely, my lord, there must be some grave misapprehension in all this of the views entertained and expressed by this government upon the proposals embraced in your lordship's note of November 30, or else this government has labored under an equally serious error as to what was intended by Sir William Ouseley's mission. It is under this impression, and in order to prevent two great nations from failing in their attempts to adjust an important controversy from a mere question of form, or a mere misunderstanding of each other's views, that I have entered into this extended narrative. It is of no small consequence, either to the United States or Great Britain, that these Central American controversies between the two countries should be forever closed.

On some points of them, and I have been led to hope on the general policy which ought to apply to the whole Isthmian region, they have reached a commond ground of agreement.

The neutrality of the interoceanic routes and their freedom from the superior and controlling influence of any one government, the principles upon which the Mosquito protectorate may be arranged, with justice alike to the sovereignty of Nicaragua and the Indian tribes, the surrender of the Bay Islands under certain stipulations for the benefit of trade and the protection of their British occupants, and the definition of the boundaries of the British Belize—about all these points there is no apparent disagreement except as to the conditions which shall be annexed to the Bay Islands' surrender, and as to the limits which shall be fixed to the settlements of the Belize. Is it possible that, if approached in a spirit of conciliation and good feeling, these two points of difference are not susceptible of a friendly adjustment? To believe this would be to underestimate the importance of the adjustment, and the intelligent appreciation of this importance which must be entertained by both nations.

What the United States want in Central America, next to the happiness of its people, is the security and neutrality of the interoceanic routes which lead through it. This is equally the desire of Great Britain, of France, and of the whole commercial world. If the principles and policy of the Clayton-Bulwer treaty are carried into effect, this ob-

ject is accomplished. When, therefore, Lord Malmesbury invites new overtures from this government upon the idea that it has rejected the proposal embraced in Sir William Ouseley's mission for an adjustment of the Central American questions by separate treaties with Honduras, Nicaragua, and Guatemala, upon terms substantially according with the general tenor of the American interpretation of the treaty, I have to reply that this very adjustment is all that the President ever desired, and that instead of having rejected that proposal he had expressed his cordial acceptance of it so far as he understood it, and had anticipated from it the most gratifying consequences.

Nothing now remains for me but to inquire of your lordship whether the overtures contained in your lordship's note of November 30, are to be considered as withdrawn by Her Majesty's Government, or whether the good results expected in the beginning from Sir William Ouseley's mission may not yet be happily accomplished.

I have, &c.,

LEWIS CASS.

58.—*Lord Malmesbury to Lord Napier.*

[Extract.]

FOREIGN OFFICE, *December* 8, 1858.

MY LORD: I have to inform your lordship that Her Majesty's Government have received with lively satisfaction the note which General Cass addressed to your lordship on the 8th of November. The friendly tone in which it is written, and the high appreciation which it displays of the importance of terminating the irritating discussions in which both our countries have been so long involved, cannot but tend to render that termination near at hand and permanent.

I feel it to be a duty to do justice to the accuracy with which General Cass has recapitulated the circumstances under which the controversy has been sustained, and the efforts hitherto employed to settle it have failed.

* * * * * * *

I am, &c.,

MALMESBURY.

59.—*Convention between Great Britain and Guatemala. Signed at Guatemala April* 30, 1859.

Whereas the boundary between Her Britannic Majesty's settlement and possessions in the Bay of Honduras and the territories of the Republic of Guatemala has not yet been ascertained and marked out; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Guatemala, being desirous, with a view to improve and perpetuate the friendly relations which happily subsist between the two countries, to define the boundary aforesaid have resolved to conclude a convention for that purpose, and have named as their plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, esquire, Her Britannic Majesty's chargé d'affaires to the Republic of Guatemala, and his excellency the President of the Republic of Guatemala, Don Pedro de Aycinena, councillor of state and minister for foreign affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ART. I. It is agreed between Her Britannic Majesty and the Republic of Guatemala, that the boundary between the republic and the British settlement and possessions in the Bay of Honduras, as they existed previous to and on the 1st day of January, 1850, and have continued to exist up to the present time, was and is as follows:

Beginning at the mouth of the River Sarstoon, in the Bay of Honduras, and proceeding up the mid-channel thereof to Gracias á Dios Falls; then turning to the right and continuing by a line drawn direct from Gracias á Dios Falls to Garbutt's Falls, on the River Belize, and from Garbutt's Falls due north until it strikes the Mexican frontier.

It is agreed and declared between the High Contracting Parties that all the territory to the north and east of the line of boundary above described belongs to Her Britannic Majesty; and that all the territory to the south and west of the same belongs to the Republic of Guatemala.

ART. II. Her Britannic Majesty and the Republic of Guatemala shall, within 12 months after the exchange of the ratifications of the present convention, appoint each a commissioner for the purpose of designating and marking out the boundary described in the preceding article. Such commissioners shall ascertain the latitude and longitude of Gracias á Dios Falls and of Garbutt's Falls, and shall cause the line of boundary between Garbutt's Falls and the Mexican territory to be opened and marked where necessary, as a protection against future trespass.

ART. III. The commissioners mentioned in the preceding article shall meet at such place or places as shall be hereafter fixed, at the earliest convenient period after they shall have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all the matters referred to them for their decision, and such declaration shall be entered on the record of their proceedings. The commissioners shall then, and before proceeding to any other business, name some third person to act as arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the choice of such a third person, they shall each name a person; and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the commissioners, which declaration shall also be entered on the record of the proceedings. In the event of the death, absence, or incapacity of either of such commissioners, or of either of such arbitrators or umpires, or of his omitting, or declining, or ceasing to act, another person shall be named, in the same manner, to act in his place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Guatemala shall engage to consider the decision of the two commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be respectively referred to their decision, and forthwith to give full effect to the same.

ART. IV. The commissioners hereinbefore mentioned shall make to each of the respective governments a joint report or declaration, under their hands and seals, accompanied with a map or maps in quadruplicate (two for each government), certified by them to be true maps of the boundary defined in the present treaty, and traversed and examined by them.

ART. V. The commissioners and the arbitrator or umpire shall keep accurate records and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ such surveyors, clerk or clerks, or other persons as they shall find necessary to assist them in the transaction of the business which may come before them.

The salaries of the commissioners shall be paid by their respective governments. The contingent expenses of the commission, including the salary of the arbitrator or umpire, and of the surveyors and clerks, shall be defrayed in equal moieties by the two governments.

ART. VI. It is further agreed that the channels in the water-line of boundary described in Article I of the present convention shall be equally free and open to the vessels and boats of both parties, and that any islands which may be found therein shall belong to that party on whose side of the main navigable channel they are situated.

ART. VII. With the object of practically carrying out the views set forth in the preamble of the present convention for improving and perpetuating the friendly relations which at present so happily exist between the two High Contracting Parties, they mutually agree conjointly to use their best efforts, by taking adequate means for establishing the easiest communication (either by means of a cart-road or employing the rivers, or both united, according to the opinion of the surveying engineers) between the fittest place on the Atlantic coast, near the settlement of Belize and the capital of Guatemala, whereby the commerce of England on the one hand, and the material prosperity of the Republic on the other, cannot fail to be sensibly increased, at the same time that the limits of the two countries being now clearly defined, all further encroachments by either party on the territory of the other will be effectually checked and prevented for the future.

ART. VIII. The present convention shall be ratified, and the ratifications shall be exchanged at London or Guatemala as soon as possible within the space of 6 months.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Guatemala, the 30th day of April, in the year 1859.

[L. S.] CHARLES LENNOX WYKE.
[L. S.] P DE AYCINENA.

60.—*Treaty between Great Britain and Honduras respecting the Bay Islands, the Mosquito Indians, and the rights and claims of British subjects, signed at Comayagua, November* 28, 1859.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Honduras, being desirous to settle in a friendly manner certain questions in which they are mutually interested, have resolved to conclude a Treaty for that purpose, and have named as their Plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, esquire, Companion of the Most Honor-

able Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, on a special mission to the Republics of Central America; and His Excellency the President of the Republic of Honduras, Don Francisco Cruz, Political Chief of the Department of Comayagua.

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ART. I. Taking into consideration the peculiar geographical position of Honduras, and in order to secure the neutrality of the islands adjacent thereto, with reference to any railway or other line of interoceanic communication which may be constructed across the territory of Honduras on the mainland, Her Britannic Majesty agrees to recognize the Islands of Ruatan, Guanaca, Elena, Utile, Barbarete, and Morat, known as the Bay Islands, and situated in the Bay of Honduras, as a part of the Republic of Honduras.

The inhabitants of the said islands shall not be disturbed in the enjoyment of any property which they may have acquired therein, and shall retain perfect freedom of religious belief and worship, public and private, but remaining in all other respects subject to the laws of the Republic. If any of them should wish to withdraw from the islands, they shall be at full liberty to do so; to dispose of their fixed or other property as they may think fit, and to take with them the proceeds thereof.

The Republic of Honduras engages not to cede the said islands, or any of them, or the right of sovereignty over such islands, or any of them, or any part of such sovereignty, to any nation or state whatsoever.

ART. II. Her Britannic Majesty engages, subject to the conditions and engagements specified in the present Treaty, and without prejudice to any question of boundary between the Republics of Honduras and Nicaragua, to recognize as belonging to and under the sovereignty of the Republic of Honduras the country hitherto occupied or possessed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be. The British protectorate of that part of the Mosquito territory shall cease 3 months after the exchange of the ratifications of the present treaty, in order to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of said treaty.

ART. III. The Mosquito Indians in the district recognized by Article II of this treaty as belonging to and under the sovereignty of the Republic of Honduras shall be at liberty to remove, with their property, from the territory of the Republic, and to proceed whithersoever they may desire, and such of the Mosquito Indians who remain within the said district shall not be disturbed in the possession of any lands or other property which they may hold or occupy, and shall enjoy, as natives of the Republic of Honduras, all rights and privileges enjoyed generally by the natives of the Republic.

The Republic of Honduras being desirous of educating the Mosquito Indians, and improving their social condition in the district so occupied by them, will grant an annual sum of 5,000 dollars, in gold or silver, for the next 10 years for that purpose, to be paid to their headman in the said district, the payment of such annual sum being guaranteed them by a mortgage on all woods and other natural productions (whatever they may be) of the state lands in the Bay Islands and the Mosquito territory. These payments shall be made in half-yearly instalments of 2,500 dollars each, the first of which payments shall be made 6 months after the exchange of the ratifications of the present treaty.

ART. IV. Whereas British subjects have, by grant, lease, or otherwise, heretofore obtained from the Mosquito Indians interests in various lands situated within the district mentioned in the preceding article, the Republic of Honduras engages to respect and maintain such interests; and it is further agreed that Her Britannic Majesty and the Republic shall, within 12 months after the exchange of the ratifications of the present Treaty, appoint two commissioners, one to be named by each party, in order to investigate the claims of British subjects arising out of such grants or leases, or otherwise, and all British subjects whose claims shall, by the commissioners, be pronounced well founded and valid, shall be quieted in the possession of their respective interests in the said lands.

ART. V. It is further agreed between the contracting parties that the commissioners mentioned in the preceding article shall also examine and decide upon any British claims upon the Government of Honduras that may be submitted to them, other than those specified in that article, and not already in a train of settlement; and the Republic of Honduras agrees to carry into effect any agreements for the satisfaction of British claims already made, but not yet carried into effect.

ART. VI. The commissioners mentioned in the preceding articles shall meet in the city of Guatemala, at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, all the matters referred to them for their decision, and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some third person to act as an arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the selection of such a person, the commissioner on either side shall name a person; and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the commissioners, which declaration shall also be entered on the record of the proceedings.

In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another person or persons shall be named as aforesaid to act as arbitrator or umpire in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Honduras hereby engage to consider the decision of the commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be referred to their decision; and they further engage forthwith to give full effect to the same.

ART. VII. The commissioners and the arbitrator or umpire shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ a clerk or other persons to assist them in the transaction of the business which may come before them.

The salaries of the commissioners shall be paid by their respective governments. The contingent expenses of the commission, including the salary of the arbitrator or umpire, and of the clerk or clerks, shall be defrayed in equal halves by the two governments.

ART. VIII. The present Treaty shall be ratified, and the ratifications shall be exchanged at Comayagua as soon as possible within 6 months from this date.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Comayagua the 28th day of November, in the year of our Lord 1859.

[L. S.] C. LENNOX WYKE.
[L. S.] FRANCISCO CRUZ.

61.—*Treaty between Great Britain and Nicaragua relative to the Mosquito Indians and to the rights and claims of British subjects. Signed at Managua January* 28, 1860.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, being desirous to settle in a friendly manner certain questions in which they are mutually interested, have resolved to conclude a Treaty for that purpose, and have named as their plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Charles Lennox Wyke, esquire, Companion of the Most Honorable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special mission to the Republics of Central America; and his Excellency the President of the Republic of Nicaragua, Don Pedro Zeledon, Minister for Foreign Affairs.

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ART. I. On exchanging the ratifications of the present Treaty, Her Britannic Majesty, subject to the conditions and engagements specified therein, and without prejudice to any question of boundary between the Republics of Nicaragua and Honduras, will recognize as belonging to and under the sovereignty of the Republic of Nicaragua the country hitherto occupied or claimed by the Mosquito Indians within the frontier of that Republic, whatever that frontier may be.

The British protectorate of that part of the Mosquito territory shall cease three months after the exchange of the ratifications of the present Treaty; in order to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of said Treaty.

II. A district within the territory of the Republic of Nicaragua shall be assigned to the Mosquito Indians, which district shall remain, as above stipulated, under the sovereignty of the Republic of Nicaragua. Such district shall be comprised in a line, which shall begin at the mouth of the river Rama, in the Caribbean Sea; thence it shall run up the mid-course of that river to its source, and from such source proceed in a line due west to the meridian of 84° 15′ longitude west from Greenwich; thence due north up the said meridian until it strikes the river Hueso, and down the mid-course of that river to its mouth in the sea, as laid down in Baily's map at about latitude from 14° to 15° north, and longitude 83° west from the meridian of Greenwich; and thence

southerly along the shore of the Caribbean Sea to the mouth of the river Rama, the point of commencement. But the district thus assigned to the Mosquito Indians may not be ceded by them to any foreign person or state, but shall be and remain under the sovereignty of the Republic of Nicaragua.

III. The Mosquito Indians within the district designated in the preceding article shall enjoy the right of governing according to their own customs, and according to any regulations which may from time to time be adopted by them, not inconsistent with the sovereign rights of the Republic of Nicaragua, themselves, and all persons residing within such district. Subject to the above-mentioned reserve, the Republic of Nicaragua agrees to respect and not to interfere with such customs and regulations so established or to be established within the said district.

IV. It is understood, however, that nothing in this treaty shall be construed to prevent the Mosquito Indians at any future time from agreeing to absolute incorporation into the Republic of Nicaragua on the same footing as other citizens of the republic, and from subjecting themselves to be governed by the general laws and regulations of the republic instead of by their customs and regulations.

V. The Republic of Nicaragua, being desirous of promoting the social improvement of the Mosquito Indians, and of providing for the maintenance of the authorities to be constituted under the provisions of Article III of this treaty, in the district assigned to the said Indians, agrees to grant to the said authorities, for the space of 10 years, with a view to such purposes, an annual sum of 5,000 hard dollars. The said sum shall be paid at Greytown, by half-yearly payments, to such persons as may be authorized by the chief of the Mosquito Indians to receive the same, and the first payment shall be made 6 months after the exchange of the ratifications of the present treaty.

For the payment of this sum Nicaragua will levy and especially consign a duty, to be levied according to weight, on all packages of goods that are imported into that port for consumption in the territory of the republic; and in case this duty shall not suffice for the payment of said sum, the deficit shall be made up from the other duties levied in the republic.

VI. Her Britannic Majesty engages to use her good offices with the chief of the Mosquito Indians, so that he shall accept the stipulations which are contained in this convention.

VII. The Republic of Nicaragua shall constitute and declare the port of Greytown, or San Juan del Norte, a free port under the sovereign authority of the republic. But the Republic, taking into consideration the immunities heretofore enjoyed by the inhabitants of Greytown, consents that trial by jury in all cases, civil or criminal, and perfect freedom of religious belief and worship, public and private, such as has hitherto been enjoyed by them up to the present moment, shall be guaranteed to them for the future.

No duties or charges shall be imposed upon vessels arriving in or departing from the free port of Greytown, other than such as may be sufficient for the due maintenance and safety of the navigation, for providing lights and beacons, and for defraying the expense of the police of the port; neither shall any duties or charges be levied in the free port on goods arriving therein, in transit from sea to sea. But nothing contained in this article shall be construed to prevent the Republic of Nicaragua from levying the usual duties on goods destined for consumption within the territory of the republic.

VIII. All *bona fide* grants of land for due consideration, made in the

name and by the authority of the Mosquito Indians since the 1st of January, 1848, and lying beyond the limits of the territory reserved for the said Indians, shall be confirmed, provided the same shall not exceed in any case the extent of 100 yards square, if within the limits of San Juan or Greytown, or one league square if without the same, and provided that such grant shall not interfere with other legal grants made previously to that date by Spain, the Republic of Central America, or Nicaragua; and provided further, that no such grant shall include territory desired by the government of the latter state for forts, arsenals, or other public buildings. This stipulation only embraces those grants of land made since the 1st of January, 1848.

In case, however, any of the grants referred to in the preceding paragraph of this article should be found to exceed the stipulated extent, the commissioners hereinafter mentioned shall, if satisfied of the *bona fides* of any such grants, confirm to the grantee or grantees, or to his or their representatives or assigns, an area only equal to the stipulated extent.

And in case any *bona fide* grant, or any part thereof, should be desired by the government for forts, arsenals, or other public buildings, an equivalent extent of land shall be allotted to the grantees elsewhere.

* It is understood that the grants of land treated of in this article shall not extend to the westward of the territory reserved for the Mosquito Indians in Article II further than 84° 30′ of longitude, in a line parallel and equal with that of said territory on the same side; and if it should appear that any grants have been made further in the interior of the republic, the lands acquired *bona fide* shall be replaced with those that are within the limits defined under the regulations agreed upon.

IX. Her Britannic Majesty and the Republic of Nicaragua shall, within 6 months after the exchange of the ratifications of the present treaty, appoint each a commissioner for the purpose of deciding upon the *bona fides* of all grants of land mentioned in the preceding article as having been made by the Mosquito Indians of lands heretofore possessed by them, and lying beyond the limits of the territory described in Article I.

X. The commissioners mentioned in the preceding article shall, at the earliest convenient period after they shall have been respectively named, meet at such place or places as shall be hereafter fixed; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, all the matters referred to them for their decision; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some third person to act as arbitrator or umpire in any case or cases in which they may themselves differ in opinion. If they should not be able to agree upon the selection of such a person, the commissioner on either side shall name a person, and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be chosen shall, before proceeding to act, make and subscribe a solemn declaration, in a form similar to that which shall already have been made and subscribed by the commissioners, which declaration shall also be entered on the record of the proceedings.

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* See declaration, August 2d, 1860, page 154.

In the event of the death, absence, or incapacity of such person or persons, or of his or their omiting, or declining, or ceasing to act as such arbitrator or umpire, another person or other persons shall be named as aforesaid to act in his or their place or stead, and shall make and subscribe such declaration as aforesaid.

Her Britannic Majesty and the Republic of Nicaragua shall engage to consider the decision of the two commissioners conjointly, or of the arbitrator or umpire, as the case may be, as final and conclusive on the matters to be referred to their decision, and forthwith to give full effect to the same.

XI. The commissioners and the arbitrators or umpires shall keep accurate records and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ such clerk or clerks, or other persons, as they shall find necessary to assist them in the transaction of the business which may come before them.

The salaries of the commissioners and of the clerk or clerks shall be paid by their respective governments.

The salary of the arbitrators or umpires and their contingent expenses shall be defrayed in equal moieties by the two governments.

XII. The present Treaty shall be ratified by Her Britannic Majesty, and by the Congress of the Republic of Nicaragua, and the ratifications shall be exchanged at London as soon as possible within the space of six months.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Managua, this 28th day of January, in the year of our Lord 1860.

[L. S.] CHARLES LENNOX WYKE.
[L. S.] PEDRO ZELEDON.

DECLARATION.

In proceeding to the exchange of the ratifications of the Treaty concluded and signed at Managua on the 28 of January, 1860, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Republic of Nicaragua, relative to the Mosquito Indians and to the rights and claims of British subjects, the undersigned, Her Britannic Majesty's principal Secretary of State for Foreign Affairs, and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua, hereby declare that the limitation laid down in the paragraph added by the Congress of the Republic to Article VIII * of the said Treaty applies to grants of land to the west of the meridian of 84° 30′ of longitude throughout the whole extent of the territory hitherto occupied or claimed by the Mosquito Indians within the frontier of the Republic, but not to grants in any part of the said territory to the east of that meridian line.

In witness whereof the undersigned have signed the present declaration, and have affixed thereto their respective seals.

Done at London, the 2d day of August, in the year of our Lord 1860.

[L. S.] J. RUSSELL.
[L. S.] J. DE MARCOLETA.

* Page 153.

62.—*President Buchanan's message to Congress, December* 3, 1860.

[Extract.]

The discordant constructions of the Clayton and Bulwer treaty between the two governments, which, at different periods of the discussion, bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this government.

In my last annual message I informed Congress that the British Government had not then

> Completed treaty arrangements with the Republics of Honduras and Nicaragua in pursuance of the understanding between the two governments. It is, nevertheless, confidently expected that this good work will ere long be accomplished.

This confident expectation has since been fulfilled. Her Britannic Majesty concluded a treaty with Honduras on the 28th November, 1859, and with Nicaragua on the 28th August, 1860, relinquishing the Mosquito protectorate. Besides, by the former the Bay Islands are recognized as a part of the Republic of Honduras. It may be observed that the stipulations of these treaties conform in every important particular to the amendments adopted by the Senate of the United States to the treaty concluded at London on the 17th October, 1856, between the two governments. It will be recollected that this treaty was rejected by the British Government because of its objection to the just and important amendment of the Senate to the article relating to Ruatan and the other islands in the Bay of Honduras.

63.—*Mr. Seward to Mr. Adams.*

No. 1745.] DEPARTMENT OF STATE,
Washington, April 25, 1866.

SIR: Towards the close of Mr. Polk's administration the British Government, disturbed, perhaps, by the recent acquisition of territory by the United States on the Pacific, showed what we thought to be a disposition to contend with the governments of the Central American states, with the ultimate object, as was supposed, of acquiring dominion there, and also a control of any ship-canal which might be made between the two oceans by the way of the San Juan River and Lake Nicaragua. British subjects had long before that time lent those governments money, the interest on which was in arrears, chiefly in consequence of the strife between the states which ensued upon their separation and as a confederacy.

War measures were determined upon to recover this interest; among others, the seizure of the island of Tiger, belonging to Honduras, in the Bay of Fonseca, was made by a British naval force in October, 1849. This seizure was protested against by Mr. Squier, the United States chargé d'affaires in Nicaragua, and a disavowal of the proceedings by the British Government was required by Mr. Clayton in an instruction to Mr. Abbott Lawrence, at London, of the 29th of December, 1849.

Insomuch as one route (by some supposed the best route) for the ship-canal from the lake to the Pacific lay along the Estero Real, which empties into the Bay of Fonseca, near Tiger Island, Mr. Squier deemed himself warranted in incorporating in a general commercial treaty with

Honduras, which he signed on the 28th of September, 1849, provisions for acquiring land for naval stations on that island or on the continent in its vicinity. By what is called a protocol, of the same date, Honduras ceded Tiger Island to the United States, pending the ratification or rejection of the general treaty, provided that the time should exceed eighteen months.

These stipulations were entered into by Mr. Squier without instructions from the Department, and when the treaty and additional articles were received, he was reproved for them. They were never laid before the Senate. It is not to be doubted, however, that they occasioned uneasiness to the British Government, and in a great degree led to the Clayton-Bulwer treaty of the 19th of April, 1850.

The preamble of that treaty states that its object was to fix the views and intentions of the parties in regard to the ship canal.

The first article of the treaty, still referring to the ship-canal, stipulates that neither party will erect fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise dominion in any part of Central America.

It seems obvious that the renunciation by the parties to this instrument of a right to acquire dominion in Central America was intended to prevent either of them from obtaining control over the proposed ship-canal. At the time the treaty was concluded there was every prospect that that work would not only soon be begun, but that it would be carried to a successful conclusion. For reasons, however, which it is not necessary to specify, it never was even commenced, and at present there does not appear to be a likelihood of its being undertaken. It may be a question, therefore, supposing that the canal should never be begun, whether the renunciatory clauses of the treaty are to have perpetual operation.

Technically speaking, this question might be decided in the negative. Still, so long as it should remain a question, it would not comport with good faith for either party to do anything which might be deemed contrary to even the spirit of the treaty.

It is becoming more and more certain every day that not only naval warfare in the future, but also all navigation of war vessels in time of peace must be by steam. This necessity will occasion little or no inconvenience to the principal maritime powers of Europe, and especially to Great Britain, as those powers have possessions in various parts of the globe where they can have stores of coal and provisions for the use of their vessels. We are differently situated. We have no possession beyond the limits of the United States. Foreign colonization has never been favored by statesmen in this country either on general grounds or as in harmony with our peculiar condition. There is no change or likely to be any in this respect. It is indispensable for us, however, to have coaling stations under our own flag for naval observation and police, and for defensive war as well as for the protection of our widely spread commerce when we are at peace ourselves. This want, even for our commercial marine, is nowhere more sensibly felt than on the track between Panama and San Francisco. The question then occurs what points beyond our jurisdiction would be most eligible for this purpose?

Whatever opinion might be entertained in regard to any other sites, there would be no question that Tiger Island would be exceedingly desirable for that purpose.

Under these circumstances, you will sound Lord Clarendon as to the disposition of his government to favor us in acquiring coaling stations in Central America, notwithstanding the stipulation contained in the

Clayton-Bulwer treaty. In doing this, however, you will use general terms only, and will by no means allow it to be supposed that we particularly covet Tiger Island. You will execute this instruction at such time and in such way as to you may seem best, and inform the Department of the result, so that the United States minister to Honduras may be directed to proceed accordingly.

It is supposed that you may probably be able to introduce the subject to the Earl of Clarendon's attention by suggesting that a negotiation with a view to the special end mentioned might be made an element in a general negotiation for settlement of the northwest-boundary question and of the conflicting claims of the two countries which have arisen during the late rebellion in the United States.

I am, &c.,

WILLIAM H. SEWARD.

64.—*Extract from the report of Mr. Fish, Secretary of State, accompanying President Grant's message to the Senate of July* 14, 1870.

DEPARTMENT OF STATE,
Washington, July 14, 1870.

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The avoidance of entangling alliances, the characteristic feature of the foreign policy of Washington, sprang from this condition of things. But the entangling alliances which then existed were engagements made with France as a part of the general contract under which aid was furnished to us for the achievement of our independence. France was willing to waive the letter of the obligation as to her West India possessions, but demanded, in its stead, privileges in our ports which the administration was unwilling to concede. To make its refusal acceptable to a public which sympathized with France, the cabinet of General Washington exaggerated the principle into a theory tending to national isolation.

The public measures designed to maintain unimpaired the domestic sovereignty and the international neutrality of the United States were independent of this policy, though apparently incidental to it. The municipal laws enacted by Congress then and since have been but declarations of the law of nations. They are essential to the preservation of our national dignity and honor; they have for their object to repress and punish all enterprises of private war, one of the last relics of mediæval barbarism; and they have descended to us from the fathers of the republic, supported and enforced by every succeeding President of the United States.

The foreign policy of these early days was not a narrow one. During this period we secured the evacuation by Great Britain of the country wrongfully occupied by her on the lake; we acquired Louisiana; we measured forces on the sea with France, and on the land and sea with England; we set the example of resisting and chastising the piracies of the Barbary States; we initiated in negotiations with Prussia the long line of treaties for the liberalization of war and the promotion of international intercourse; and we steadily demanded, and at length obtained, indemnification from various governments for the losses we had suffered by foreign spoliations in the wars of Europe.

To this point in our foreign policy we had arrived when the revolu-

tionary movements in Spanish and Portuguese America compelled a modification of our relations with Europe, in consequence of the rise of new and independent states in America.

The revolution, which commenced in 1810 and extended through all the Spanish-American continental colonies, after vain efforts of repression on the part of Spain, protracted through twenty years, terminated in the establishment of the independent states of Mexico, Guatemala, San Salvador, Honduras, Nicaragua, Costa Rica, Venezuela, Colombia, Ecuador, Peru, Chili, Bolivia, the Argentine Republic, Uruguay, and Paraguay, to which the Empire of Brazil came in time to be added. These events necessarily enlarged the sphere of action of the United States, and essentially modified our relations with Europe, and our attitude to the rest of this continent.

The new states were, like ourselves, revolted colonies. They continued the precedent we had set, of separating from Europe. Their assumption of independence was stimulated by our example. They professedly imitated us, and copied our national Constitution, sometimes even to their inconvenience.

The Spanish-American colonies had not the same preparation for independence that we had. Each of the British colonies possessed complete local autonomy. Its formal transition from dependence to independence consisted chiefly in expelling the British governor of the colony, and electing a governor of the State, from which to the organized Union was but a step. All these conditions of success were wanting in Spanish America, and hence many of the difficulties in their career as independent states; and further, while the revolution in British America was the exclusive result of the march of opinion in the British colonies, the simultaneous action of the separate Spanish colonies, though showing a desire for independence, was principally produced by the accident of the invasion of Spain by France.

The formation of these new sovereignties in America was important to us, not only because of the cessation of colonial monopolies to that extent, but because of the geographical relations to us, held by so many new nations, all, like ourselves, created from European stock, and interested in excluding European politics, dynastic questions, and balances of power from further influence in the New World.

Thus the United States were forced into new lines of action, which, though apparently in some respects conflicting, were really in harmony with the line marked out by Washington. The avoidance of entangling political alliances, and the maintenance of our own independent neutrality became doubly important from the fact that they became applicable to the new republics as well as to the mother country. The duty of non-interference had been admitted by every President. The question came up in the time of the first Adams, on the occasion of the enlistment projects of Miranda. It appeared again under Jefferson (anterior to the revolt of the Spanish colonies) in the schemes of Aaron Burr. It was an ever-present question in the administrations of Madison, Monroe, and the younger Adams, in reference to the questions of foreign enlistment or equipment in the United States, and when these new republics entered the family of nations, many of them very feeble, and all too much subject to internal revolution and civil war, a strict adherence to our previous policy and a strict enforcement of our laws became essential to the preservation of friendly relations with them; for, since that time, it has been one of the principal cares of those intrusted with the administration of the government, to prevent piratical expeditions against these sister republics from leaving our ports. And thus the

changed condition of the New World made no change in the traditional and peaceful policy of the United States in this respect.

In one respect, however, the advent of these new states in America did compel an apparent change of foreign policy on our part. It devolved upon us the determination of the great international question, at what time, and under what circumstances, to recognize a new power as entitled to a place among the family of nations. There was but little of precedent to guide us, except our own case. Something, indeed, could be inferred from the historical origin of the Netherlands and Switzerland. But our own case, carefully and conscientiously considered, was sufficient to guide us to right conclusions. We maintained our position of international friendship and of treaty obligations toward Spain, but we did not consider that we were bound to wait for its recognition of the new republics before admitting them into treaty relations with us as sovereign States. We held that it was for us to judge whether or not they had attained to the condition of actual independence, and the consequent right of recognition by us. We considered this question of fact deliberately and coolly. We sent commissioners to Spanish America to ascertain and report for our information concerning their actual circumstances, and in the fullness of time we acknowledged their independence; we exchanged diplomatic ministers, and made treaties of amity with them, the earliest of which, negotiated by Mr. John Quincy Adams, served as the model for the subsequent treaties with the Spanish-American republics. We also, simultaneously therewith, exerted our good offices with Spain, to induce her to submit to the inevitable result, and herself to accept and acknowledge the independence of her late colonies. We endeavored to induce Russia to join us in these representations. In all this our action was positive, in the direction of promoting the complete political separation of America from Europe.

A vast field was thus opened to the statesmen of the United States for the peaceful introduction, the spread, and the permanent establishment of the American ideas of republican government, of modification of the laws of war, of liberalization of commerce, of religious freedom and toleration, and of the emancipation of the New World from the dynastic and balance of power controversies of Europe.

Mr. John Quincy Adams, beyond any other statesman of the time in this country, had the knowledge and experience, both European and American, the comprehension of thought and purpose, and the moral convictions which peculiarly fitted him to introduce our country into this new field, and to lay the foundation of an American policy. The declaration known as the Monroe doctrine, and the objects and purposes of the congress of Panama, both supposed to have been largely inspired by Mr. Adams, have influenced public events from that day to this, as a principle of government for this continent and its adjacent islands.

It was at the period of the congress of Aix-la-Chapelle and of Laybach, when the "holy alliance" was combined to arrest all political changes in Europe in the sense of liberty, when they were intervening in Southern Europe for the re-establishment of absolutism, and when they were meditating interference to check the progress of free government in America, that Mr. Monroe, in his annual message of December, 1823, declared that the United States would consider any attempt to extend the European system to any portion of this hemisphere as dangerous to our peace and safety. "With the existing colonies or dependencies of any European power," he said, "we have not interfered and

shall not interfere. But with the governments who have declared their independence, and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling, in any other manner, their destiny, by any European power, in any other light than as the manifestation of an unfriendly feeling towards the United States."

This declaration resolved the solution of the immediate question of the independence of the Spanish-American colonies, and is supposed to have exercised some influence upon the course of the British cabinet in regard to the absolutist schemes in Europe as well as in America.

It has also exercised a permanent influence on this continent. It was at once invoked in consequence of the supposed peril of Cuba on the side of Europe; it was applied to a similar danger threatening Yucatan; it was embodied in the treaty of the United States and Great Britain as to Central America; it produced the successful opposition of the United States to the attempt of Great Britain to exercise dominion in Nicaragua under the cover of the Mosquito Indians; and it operated in like manner to prevent the establishment of a European dynasty in Mexico.

The United States stand solemnly committed by repeated declarations and repeated acts to this doctrine, and its application to the affairs of this continent. In his message to the two houses of Congress at the commencement of the present session, the President, following the teachings of all our history, said that the existing "dependencies are no longer regarded as subject to transfer from one European power to another. When the present relation of colonies ceases, they are to become independent powers, exercising the right of choice and of self-control in the determination of their future condition and relations with other powers."

This policy is not a policy of aggression; but it opposes the creation of European dominion on American soil, or its transfer to other European powers, and it looks hopefully to the time when, by the voluntary departure of European governments from this continent and the adjacent islands, America shall be wholly American.

It does not contemplate forcible intervention in any legitimate contest; but it protests against permitting such a contest to result in the increase of European power or influence; and it ever impels this government, as in the late contest between the South American republics and Spain, to interpose its good offices to secure an honorable peace.

The congress of Panama was planned by Bolivar to secure the union of Spanish America against Spain. It had originally military as well as political purposes. In the military objects the United States could take no part; and indeed the necessity for such objects ceased when the full effects of Mr. Monroe's declarations were felt. But the pacific objects of the Congress, the establishment of close and cordial relations of amity, the creation of commercial intercourse, of interchange of political thought, and of habits of good understanding between the new republics and the United States and their respective citizens, might perhaps have been attained, had the administration of that day received the united support of the country. Unhappily they were lost; the new states were removed from the sympathetic and protecting influence of our example, and their commerce, which we might then have secured, passed into other hands, unfriendly to the United States.

In looking back upon the Panama congress from this length of time, it is easy to understand why the earnest and patriotic men who endeavored to crystallize an American system for this continent failed.

Mr. Clay and Mr. Adams were far-sighted statesmen, but unfortunately they struck against the rock of African slavery. One of the questions proposed for discussion in the conference was "The consideration of the means to be adopted for the entire abolition of the African slave trade," to which proposition the committee of the United States Senate of that day replied, "The United States have not certainly the right, and ought never to feel the inclination, to dictate to others who may differ with them upon this subject, nor do the committee see the expediency of insulting other states, with whom we are maintaining relations of perfect amity, by ascending the moral chair, and proclaiming from thence mere abstract principles, of the rectitude of which each nation enjoys the perfect right of deciding for itself." The same committee also alluded to the possibility that the condition of the islands of Cuba and Porto Rico, still the possessions of Spain, and still slaveholding, might be made the subject of discussion and of contemplated action by the Panama congress. "If ever the United States [they said] permit themselves to be associated with these nations in any general congress assembled for the discussion of common plans in any way affecting European interests, they will, by such act, not only deprive themselves of the ability they now possess of rendering useful assistance to the other American states, but also produce other effects prejudicial to their own interests."

Thus the necessity at that day of preserving the great interest of the Southern States in African slavery, and of preventing a change in the character of labor in the islands of Cuba and Porto Rico, lost to the United States the opportunity of giving a permanent direction to the political and commercial connections of the newly enfranchised Spanish-American states, and their trade passed into hands unfriendly to the United States, and has remained there ever since.

Events, subsequent to that date, have tended to place us in a position to retrieve our mistakes; among which events may be particularly named the suppression of the rebellion, the manifestation of our undeveloped and unexpected military power, the retirement of the French from Mexico, and the abolition of slavery in the United States.

There is good reason to believe that the latter fact has had an important influence in our favor in Spanish America. It has caused us to be regarded there with more sympathetic as well as more respectful consideration. It has relieved those republics from the fear of filibusterism which had been formerly incited against Central America and Mexico in the interest of slave extension; and it has produced an impression of the stability of our institutions and of our public strength sufficient to dissipate the fears of our friends or the hopes of those who wish us ill.

Thus there exists in the Spanish-American republics confidence toward the United States. On our side they find a feeling of cordial amity and friendship, and a desire to cultivate and develop our common interests on this continent. With some of these states our relations are more intimate than with others, either by reason of closer similarity of constitutional forms, of greater commercial intercourse, of proximity in fact, or of the construction or contemplated construction of lines of transit for our trade and commerce between the Atlantic and the Pacific. With several of them we have peculiar treaty relations. The treaty of 1846 between the United States and New Grenada contains stipulations of guaranty for the neutrality of that part of the Isthmus within the present territory of Colombia, and for the protection of the rights of sovereignty and property therein belonging to Colombia. Similar stip-

ulations appear in the treaty of 1867 with Nicaragua, and of July, 1864, with Honduras. Those treaties (like the treaty of alliance made with France in 1778 by Dr. Franklin, Silas Deane, and Arthur Lee) constitute *pro tanto* a true protective alliance between the United States and each of those republics. Provisions of like effect appear in the treaty of April 19, 1850, between Great Britain and the United States.

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65.—*Mr. Fish to General Schenck.*

No. 375.] DEPARTMENT OF STATE,
Washington, April 26, 1873.

SIR: You are aware that a main object of the Clayton-Bulwer treaty, so called, of the 19th of April, 1850, was to provide against obstruction by either party to a ship-canal to the Pacific through Nicaragua. A work of that kind was then deemed specially necessary and desirable for us, as California had recently been acquired, the only practicable way to which was across the Isthmus of Panama, or around Cape Horn. For some time previously to date of that instrument, and especially during the considerable period when the United States were without a diplomatic representative in Central America, it seemed to be the policy of the British Government to avail itself of what was called its protectorate of the King of Mosquitos to wrest from Nicaragua that part of its territory claimed on behalf of that Indian chief, including, of course, the mouths of the San Juan River, by the way of which it was supposed the proposed ship-canal must pass. The Clayton-Bulwer treaty effectually checked this pretension. It also, in terms, forbade either party to occupy or fortify in any part of Central America. The British Government, probably actuated by an apprehension that this stipulation might be construed against their claims at Belize, Honduras, instructed Sir H. L. Bulwer to make the declaration of 29th of June, 1850, when the ratifications were to be exchanged, to the effect that they did not understand the engagements of the convention to apply to Belize and its dependencies. In a note to Sir Henry of the 4th of July, 1850, Mr. Clayton acknowledged that it was not the purpose of the convention to apply to Belize and its dependencies.

A similar acknowledgment is contained in a memorandum of the 5th of July, 1850, signed by Mr. Clayton, which says that he at the same time declined to affirm or deny the British title in their settlement or its alleged dependencies. Among the latter what are called the Bay Islands were claimed to belong. The British Government, however, having converted them into a separate colony, this and the continuance of its protectorate, so called, over the Mosquito Indians, were regarded as virtually such breaches of the Clayton-Bulwer treaty as to call for the remonstrances which Mr. Buchanan, and subsequently Mr. Dallas, were instructed to address, and which they did address, to that government. The answer of that government was in substance that the Clayton-Bulwer treaty was merely designed to provide for the future, and was not intended to affect any rights or claims which Great Britain may have had in Central America at the time of its conclusion. This pretension was effectually answered by Mr. Buchanan in his reply to Lord Clarendon's memorandum on the subject, which you will find on the file or record of your legation. Ultimately, on the 17th of October, 1856, a treaty which is called the Dallas-Clarendon treaty was signed at London. The ob-

ject of this instrument was to compose the differences between the two governments, especially in regard to the Bay Islands and the Mosquito protectorate. When the treaty reached here it must have been obvious to the Executive, that if it accomplished either of those purposes, it was in an incomplete and unacceptable way. Still the treaty was laid before the Senate, which body, though it did not absolutely reject it, appended to it so many and such important amendments that they were not accepted by the British Government, and the whole business proved abortive.

The British Government then sought negotiations with Nicaragua, Guatemala, and Honduras, separately, to attain the principal objects which it hoped to compass by means of the Dallas-Clarendon treaty, if it had gone into effect as it was signed.

The purposes of that government were in the main accomplished. On the 28th of January, 1860, a treaty between Great Britain and Nicaragua was signed at Managua. Though this instrument restored to that republic the nominal sovereignty over that part of its territory which had previously been claimed as belonging to the kingdom of the Mosquitos, it assigned boundaries to the Mosquito Reservation probably beyond the limits which any member of that tribe had ever seen, even when in chase of wild animals. Worst of all, however, it confirmed the grants of land previously made in Mosquito territory. The similar stipulation on this subject in the Dallas-Clarendon treaty was perhaps the most objectionable of any, as it violated the cardinal rule of all European colonists in America, including Great Britain herself, that the aborigines had no title to the soil which they could confer upon individuals.

This rule has repeatedly been confirmed by judicial decisions, and especially by the Supreme Court of the United States. It is supposed to be superfluous to add that it is understood the grantees of the Mosquito chief, respecting whose interests the British Government was so solicitous, were the subjects of the latter.

It is supposed that the expedition of Walker to Nicaragua made such an unfavorable impression on public opinion there, in respect to this country, as to prepare the way for the treaty with Great Britain. A rumor was current in that quarter, and was by many believed to be true, that Walker was an agent of this government, which, it was supposed, had covertly sent him thither to obtain control of the country. This, however, was so far from the truth that everything within its power was done by this government towards preventing the departure of Walker.

Besides the treaty with Nicaragua, just adverted to, there was a treaty between Great Britain and Honduras, signed on the 28th November, 1859, the main object of which was the restitution to the latter of the Bay Islands, which had for some time before been converted into a British colony.

This treaty also contained stipulations in regard to Mosquito Indians in Honduras territory similar to that in the treaty with Nicaragua.

On the 30th of April, 1859, a treaty between Great Britain and Guatemala was also signed, by which the boundaries of the British settlement at Belize, so called, were extended to the Sarstoon River. This instrument contained provisions for the appointment of commissioners to mark the boundaries, and for the construction of a road from Guatemala to the fittest place on the Atlantic coast near Belize. By a supplementary convention between the parties, of the 5th of August, 1863, Great Britain agreed, upon certain conditions, to contribute fifty thousand pounds sterling towards the construction of the road referred to.

From the note of the 4th of December last, addressed to this department by M. Dardon, the minister of Guatemala here, it appears that when the joint commission for running the boundary line reached the Sarstoon River the British commissioner, finding that his countrymen were trespassing beyond that limit, refused to proceed, and the stipulation on the subject, if not virtually canceled, has, at least, been suspended.

The supplementary convention not having been ratified by Guatemala in season, it is stated that the British Government has notified that of Guatemala that it would regard the stipulation on the subject of the road contained in the treaty of 1859 as at an end.

Other important information on these subjects is contained in the letter and its accompaniments of Mr. Henry Savage, to this department of the 16th of October last. He is a native of this country and at one time was consul at Guatemala.

He has frequently, in the absence of a diplomatic agent of the United States in that quarter, furnished this department with valuable information in regard to Central American affairs.

Mr. Dardon says that his government also regards its treaty of 1859 with Great Britain at an end, and requests on its behalf the co-operation and support of this government towards preventing further encroachments by British subjects on the territory of Guatemala. It is believed that if such encroachments are authorized or countenanced by that government it will be tantamount to a breach of its engagement not to occupy any part of Central America. Before, however, officially mentioning the subject to Earl Granville, it would be advisable to ascertain the correctness of the representation of Mr. Dardon, as to the cause of the discontinuance of the demarkation of the boundary.

If the statement of that gentleman should prove to be correct, you will then formally remonstrate against any trespass by British subjects, with the connivance of their government, upon the territory of Guatemala, as an infringement of the Clayton-Bulwer treaty which will be very unacceptable in this country.

I am, &c.,

HAMILTON FISH.

66.—*Message of President Hayes to Congress, March* 8, 1880.

[Extract.]

The policy of this country is a canal under American control. The United States cannot consent to the surrender of this control to any European power, or to any combination of European powers. If existing treaties between the United States and other nations, or if the rights of sovereignty or property of other nations stand in the way of this policy—a contingency which is not apprehended—suitable steps should be taken by just and liberal nogotiations to promote and establish the American policy on this subject, consistently with the rights of the nations to be affected by it.

The capital invested by corporations or citizens of other countries in such an enterprise must, in a great degree, look for protection to one or more of the great powers of the world. No European power can intervene for such protection, without adopting measures on this continent which the United States would deem wholly inadmissible. If the protection of the United States is relied upon, the United States must ex-

ercise such control as will enable this country to protect its national interests and maintain the rights of those whose private capital is embarked in the work.

An interoceanic canal across the American Isthmus will essentially change the geographical relations between the Atlantic and Pacific coasts of the United States, and between the United States and the rest of the world. It will be the great ocean thoroughfare between our Atlantic and our Pacific shores, and virtually a part of the coast line of the United States. Our merely commercial interest in it is greater than that of all other countries, while its relations to our power and prosperity as a nation, to our means of defense, our unity, peace, and safety, are matters of paramount concern to the people of the United States. No other great power would, under similar circumstances, fail to assert a rightful control over a work so closely and vitally affecting its interest and welfare.

Without urging further the grounds of my opinion, I repeat, in conclusion, that it is the right and the duty of the United States to assert and maintain such supervision and authority over any interoceanic canal across the isthmus that connects North and South America as will protect our national interests. This I am quite sure will be found not only compatible with, but promotive of, the widest and most permanent advantage to commerce and civilization.

67.—*Extract from the report of Mr. Evarts, Secretary of State, accompanying President Hayes's message (No. 66) and the Wyse concession for the Panama Canal, which it inclosed.*

The recent contract or concession made by the Government of Colombia with an association of foreign projectors, the text of which is herewith annexed (inclosure No. 5), brings to attention some considerations of more or less practical importance, according as we may estimate the feasibility of the project and the financial prospects of the projectors. It does, however, present an occasion for a deliberate indication by the Government of the United States of its relations to enterprises of this nature, both in its position as an American power, and under its specific treaty rights and obligations towards the United States of Colombia.

In the mere aspect of a contribution of capital, in the motive of profit to the investors, on the one part, and of a proprietary administration by Colombia of the transit through its territory as a source of legitimate revenue and local prosperity, the proposed canal might seem to fall within the ordinary conditions of pecuniary enterprise and internal development, which the general interests of commerce favor, and which it has been the policy of this government to stimulate and assist.

But this view of the subject is quite too narrow and too superficial. It overlooks the direct relations of the other American nations to the contemplated change in the route of water-borne commerce, and the indirect but equally weighty considerations by which the relations of the American nations to the great powers of Europe will be modified by this change. It does not penetrate the formal character of the contract as between private capital and local administration, and appreciate its real and far-reaching operation upon the commercial and political interests of the American continent.

The United States, therefore, as the great commercial and political power of America, becomes, necessarily, a principal party to any project

which shall exhibit such solidity and proportions as to distinguish it from the unsubstantial and illusory schemes which have, from time to time, proposed to solve the problem of interoceanic transit. The question involved presents itself distinctly to this government as a territorial one, in the administration of which, as such, it must exercise a potential control.

While this attitude of the United States to the political and commercial problem of an interoceanic canal, at whatever point, would seem to attach to their position on the continent, the particular rights and obligations in reference to any transit across the Isthmus of Panama, which grow out of the mutual engagements of the treaty with Colombia, fix more definitely the interest of this government in any material changes of that isthmus as the theater of these rights and obligations.

It is manifest that so stupendous a change from the natural configuration of this hemisphere as transforms the Isthmus of Panama from being a barrier between the Atlantic and Pacific Oceans into a gateway and thoroughfare between them for the navies and merchant ships of the world bears directly upon the weight and burden of our guarantees under that treaty. It is equally manifest, and only less important, that the organization and nationality of an immense capital and the administration of a great and growing force of managers and laborers, and the throng of population likely to attend the prosperity of the enterprise, affect essentially the conditions under which the United States may be called upon to perform the engagements of that treaty. The guarantee of the neutrality of the transit and of the sovereignty and property of Colombia in the isthmus are one thing while the isthmus remains in its natural and unpeopled state, and quite another when it shall have been opened to the interests, the cupidities, and the ambitions of the great commercial nations, and occupied by populations of foreign allegiance and discordant habits.

So obvious are these propositions that it may well be assumed that no contract or negotiations could ever be entered into between private projectors and the Government of Colombia except in contemplation of this position of the United States under the treaty, and of the necessity that both the private interests and the public engagements involved, in reliance upon the power and faith of this government for their protection, must be conformed to its rightful participation and control in any arrangements that may seriously affect the discharge of its stipulated responsibilities.

[Inclosure in No. 67.—Translation from the Diario Oficial of Bogota, Wednesday, May 22, 1878.]

Law 28th of 1878 (*18th of May*) "*approving the contract for the construction of an interoceanic canal across Colombian territory.*"

The Congress of the United States of Colombia, after an examination of the contract, which is verbatim as follows:

CONTRACT FOR THE CONSTRUCTION OF AN INTEROCEANIC CANAL ACROSS COLOMBIAN TERRITORY.

Eustorgio Salgar, secretary of the interior and of foreign r lations of the United States of Colombia, duly authorized, of the one part, and of the other part Lucien N. B. Wyse, chief of the Isthmus Scientific Surveying Expedition in 1876, 1877, and 1878, member and delegate of the board of directors of the International Interoceanic Canal Association, presided by General Etienne Türr, in conformity with powers bestowed at Paris, from the 27th to the 29th of October, 1877, have celebrated the following contract:

ARTICLE 1.* The Government of the United States of Colombia grants to Mr. Lucien

*This article modified by Colombian Congress. See decree which follows.

N. B. Wyse, who accepts it in the name of the civil International Interoceanic Canal Association, represented by their board of directors, the exclusive privilege for the construction across its territory, and for the operating of a canal between the Atlantic and Pacific Oceans. Said canal may be constructed without restrictive stipulations of any kind.

This concession is made under the following conditions:

1st. The duration of the privilege shall be for ninety-nine years from the day on which the canal shall be wholly or partially opened to public service, or when the grantees or their representatives commence to collect the dues on transit and navigation.

2d. From the date of approbation by the Colombian Congress for the opening of the interoceanic canal, the government of the republic cannot construct, nor concede to any company or individual, under any consideration whatever, the right to construct another canal across Colombian territory which shall communicate the two oceans. Should the grantees wish to construct a railroad as an auxiliary to the canal, the government (with the exception of existing rights) cannot grant to any other company or individual, the right to build another interoceanic railroad, nor do so, itself, during the time allowed for the construction and use of the canal.

3d. The necessary studies of the ground, and the route for the line of the canal, shall be made, at the expense of the grantees, by an international commission of individuals and competent engineers, in which two Colombian engineers shall take part. The commission shall determine the general route of the canal and report to the Colombian Government directly, or to its diplomatic agents in the United States or Europe, upon the results obtained, at the latest in 1881, unless unavoidable circumstances, clearly proven, should prevent their so doing. The report shall comprise in duplicate the scientific labors performed, and an estimate of the projected work.

4th. The grantees shall then have a period of two years to organize a universal joint stock company, which shall take charge of the enterprise, and of the construction of the canal. This term shall commence from the date mentioned in the preceding paragraph.

5th. The canal shall be finished and placed at the public service within the subsequent twelve years after the formation of the company which will undertake its construction, but the executive power is authorized to grant a further maximum term of six years in the case of encountering superhuman obstacles beyond the power of the company, and if, after one-third of the canal is buil , the company should acknowledge the impossibility of concluding the work in the said twelve years.

6th. The canal shall have the length, depth, and all other conditions requisite in order that sailing vessels and steamships measuring up to 140 meters long, 16 meters in width, and 8 meters in draught shall, with lowered topmasts, be able to pass the canal.

7th. All public lands which may be required for the route of the canal, the ports, stations, wharves, moorings, warehouses, and in general for the construction and service of the canal as well as for the railway, should it be convenient to build it, shall be ceded gratis to the grantees.

8th. These unoccupied public lands shall revert to the government of the republic, with the railroad and canal, at the termination of this privilege; there is also granted for the use of the canal a belt of land two hundred meters wide on each side of its banks throughout all the distance which it may run, but the owners of lands on its banks shall have free access to the canal and its ports as well as to the right of use of any roads which the grantees may open there; and this without paying any dues to the company.

9th. If the lands through which the canal shall pass, or upon which the railroad may be built, should, in whole or in part, be private property, the grantee shall have the right to demand their expropriation by the government according to all the legal formalities in such cases. The indemnity which shall be made to the land owners, and which shall be based on their actual value, shall be at the expense of the company. The grantees shall enjoy in this case, and in those of temporary occupation of private property, all the rights and privileges which the existing legislation confers.

10th. The grantees may establish and operate at their cost the telegraphic lines which they may consider useful as auxiliaries in the building and management of the canal.

ART. 2.* Within the term of twelve months after the international commission shall have presented the result of their definitive surveys, the grantees will deposit in the bank or banks of London, which the national executive power may designate, the sum of seven hundred and fifty thousand francs as security for the accomplishment of the work. The receipt of said bank or banks shall be a voucher of the fulfillment of said engagement. The deposit shall be made in certificates of the foreign debt of Colombia, at the current market price on the day of delivery. It is understood that should the grantees forfeit this deposit by virtue of the provisions of clause 2, article 22, of

* This article modified by Colombian Congress. See decree which follows.

this contract, the said sum with its interest shall become the sole property of the Colombian Government. On the conclusion of the canal the amount deposited as security shall remain to the credit of the treasury as indemnity to the national government for the expenses incurred in the erection of buildings for the use of public offices.

ART. 3.* Should the route of the canal from one ocean to the other pass to the west and to the north of the imaginary straight line which connects Cape Tiburon with Garachine Point, the grantees must make a friendly arrangement with the Panama Railroad Company, or pay an indemnity which shall be determined in accordance with the provisions of law 46, of August 16, 1867, "which approves the contract celebrated July 5, 1867, reformatory of that of April 15, 1850, for the construction of a railroad from ocean to ocean, across the Isthmus of Panama."

In case the international commission selects the Atrato, or some other stream now navigable, as one of the entrances of the canal, the canalized mouth shall be considered as one of the parts of the principal work, and maintained in equally good condition. River navigation in the upper part of the stream, so far as it has not for its object the use of the canal, shall be open to commerce, and free from all dues.

ART. 4.* In addition to the lands granted by paragraphs 7 and 8 of article 1, there are gratuitously given to the grantees, and at their choice five hundred thousand hectares of the unoccupied public lands, with the mines which they may contain. This allotment shall be made directly by the national executive power. The public lands situated on the sea-coast, or on the border of the canal, or at the rivers, shall be divided as closely as possible in alternate lots between the government and the company, forming, if the ground will permit, areas of one and two thousand hectares. The measurement for the allotment or location shall be made at the cost of the grantees, and with the intervention of commissioners of the government.

Unoccupied lands so granted, with the mines which they may hold, shall be awarded to the grantees as soon as they request them after the deposit of the security. In a belt of two myriameters on each side of the canal, and during five years after the conclusion of the work, the government cannot transfer other lands beyond the said lots until the company shall have obtained the whole of the lands which are granted to it gratuitously.

ART. 5.* The government of the republic declares neutral, for all time, the ports of each terminus of the canal and the waters of the latter from one sea to the other, and consequently in case of war between other nations or between one or more of these and Colombia, the transit of the canal shall not be interrupted on that account, and the merchant vessels and individuals of all nations of the world may enter said ports, and navigate the canal without let or hinderance. In general any ship whatever may navigate the canal freely without discrimination, exclusion, or preference of persons or nationalities, by paying the dues and abiding by the regulations laid down by the company for the use of said canal and its dependencies. Exception is made of foreign troops, which cannot pass without permission from Congress.

ART. 6.* The entrance to the canal shall be rigorously prohibited to the war vessels of those nations which are at war with another or others, and whose destination manifests their intention to take part in hostilities.

ART. 7. The grantees will enjoy the right during the whole time of the privilege to use the ports at the termini of the canal, as well as intermediate points, for the anchorage and repair of ships, and the loading, depositing, transshipping, or landing of merchandise. The ports of the canal shall be open and free to the commerce of all nations, and no import duties shall be exacted except on merchandise destined to be introduced for the consumption of the rest of the republic. The said ports shall, therefore, be open to importations from the commencement of the work, and the custom-houses, and the revenue service which the government may deem convenient for the collection of duties on merchandise destined for other portions of the republic, shall be established, in order to prevent introduction of smuggled goods.

ART. 8.* The executive power shall issue the necessary regulations for the protection of its revenues by preventing smuggling, and shall appoint the number of men necessary for this service at its own expense. Of the employés indispensable for this, ten shall be paid by the company, and their salaries shall not exceed those paid to officials of the same grade in the custom-house at Barranquilla. When necessary, the company shall transport, free of charge, by the canal or by the auxiliary railroad, the men at the service of the union or destined for police duty, with the object of guarding public service without, or preserving public order within. If the company should not own ships or tugs, they shall pay the passage of these men across the isthmus. The sustenance of the public force necessary for the security of the interoceanic transit shall also be at the expense of the company.

ART. 9. The grantees shall have the right to introduce, free of import or other duties of whatever class, all the instruments, machinery, tools, fixtures, provisions, clothing for laborers, which they may need during all the time allowed to them for the con-

*This article modified by Colombian Congress. See decree which follows.

struction and use of the canal. The ships carrying cargoes for the use of the enterprise shall enjoy free entry to whatever points shall affords them easy access to the line of the canal.

ART. 10. No taxes, either national, municipal, of the State, or of any other class, shall be levied upon the canal, the ships that navigate it, the tugs and vessels at the service of the grantees, their warehouses, work-shops, and offices, factories of whatever class, storehouses, wharves, machinery, or other works or property of whatever character belonging to them, and which they may need for the service of the canal and its dependencies, during the time conceded for its construction and operation. The grantees shall also have the right to take from unoccupied lands the materials of any kind which they may require without paying any compensation for the same.

ART. 11. The passengers, money, precious metals, merchandise, and articles and effects of all kinds which may be transported over the canal, shall also be exempt from all duties, national, municipal, transit and others. The same exemption is extended to all articles and merchandise for interior or exterior commerce which may remain in deposit, according to the conditions which may be stipulated, with the company in the storehouses and stations belonging to them.

ART. 12. Ships desiring to cross the canal shall present at the port of the terminus of the canal at which they may arrive, their respective registers and other sailing papers, prescribed by the laws and public treaties, so that the vessels may navigate without interruption. Vessels not having said papers, or which should refuse to present them, may be detained and proceeded against according to law.

ART. 13.* The government allows the immigration and free access to the lands and work-shops of the grantees of all employés and laborers, of whatever nationality, contracted for the enterprise, or who may come to engage themselves in the service of the canal, on condition that such employés or laborers submit to existing laws, and to the regulations established by the company. The government assures them aid and protection and the enjoyment of their rights and privileges, according to the constitution and laws of the nation, during the time they live in Colombian territory.

ART. 14.* As a compensation to the grantees for the expenses of the building, preservation and operation of the canal, which are for their account, they shall have the right during all the period of this privilege to charge and collect for passage over the canal, and the ports dependent upon it, dues for light-house, anchorage, transit, navigation, repairs, pilotage, towing, hauling, storage, and station, as per the tariff they may establish, and which may be modified at any time under the following express conditions:

1st. These dues shall be imposed without exception or favor upon all ships in identical conditions.

2d. The tariff shall be published four months before going into operation in the Diario Oficial of the government, as well as in the capitals and principal commercial ports of the countries affected thereby.

3d. The principal dues to be collected on vessels shall not exceed the rate of ten francs for each cubic meter, resulting from the multiplication of the principal dimensions of the submerged portion of the ship in transit (length, breadth, and draught).

4th. The principal dimensions of the ship in transit, that is to say, the greatest exterior length and beam of vessel, as well as the greatest draught of water, shall be nautical dimensions, inserted in the official clearance papers, with the exception of such modifications as may result in the course of the voyage. The captains of ships and agents of the company may require a new measurement to be taken, which operation shall be effected at the expense of the solicitor.

5th. The same measurement, that is to say, the parallelopiped described by the submerged part of the ship, shall serve as the basis for the determination of the other accessory charges.

6th. Special dues for navigation shall be reduced in proportion to the excess when the net profits derived therefrom shall exceed 12 per cent. of the capital employed in the enterprise.

ART. 15*. By way of compensation for the right and exemptions which are conferred upon the grantees by this contract, the government of the republic shall enjoy a participation equal to 5 per cent. of the gross earning which shall accrue to the enterprise, as per the tariff to be fixed by the company.

ART. 16. The grantees are authorized to require payment in advance of any charges which they may establish; nine-tenths of these charges shall be made payable in gold, and only the remaining one-tenth part shall be payable in silver of twenty-five grammes, of a fineness of 900.

ART. 17. The ships which shall infringe upon the rules established by the company shall be subject to the payment of a fine, which said company shall fix in its regulations, of which due notice shall be given to the public at the time of the issue of the tariff. Should they refuse to pay said fine, nor furnish sufficient security, they may

* This article modified by Colombian Congress. See decree which follows.

be detained and prosecuted according to the laws. The same proceedings may be observed for the damages they may have caused.

ART. 18. If the opening of the canal shall be deemed financially possible, the grantees are authorized to form, under the immediate protection of the Colombian Government, a universal joint-stock company, which shall undertake the execution of the work, taking charge of all financial transactions which may be needed. As this enterprise is essentially international, and for public utility, it is understood that it shall always be kept free from political influences.

The company shall take the name of "The Universal Interoceanic Canal Association"; its residence shall be fixed in Bogota, New York, London, or Paris, as the grantees may choose; branch offices may be established wherever necessary. Its contracts, shares, bonds, and titles of its property shall never be subjected by the Government of Colombia to any charges for registry, emission, stamps, or any similar imposts upon the sale or transfer of these shares or bonds, as well as on the profits produced by these values.

ART. 19. The company is authorized to reserve as much as 10 per cent. of the shares emitted, to form a fund of shares, to the benefit of the founders and promoters of the enterprise. Of the products of the concern, the company take, in the first place, what is necessary to cover all expenses of repairs, operations, and administration, and the share which belongs to the government, as well as the sums necessary for the payment of the interest and the amortization of the bonds, and, if possible the fixed interest or dividend of the shares; that which remains will be considered as net profit, out of which 80 per cent. at least will be divided among the shareholders.

ART. 20.* The Colombian Government, should it consider it important, may name a special commissioner in the board of directors of the company. This delegate shall enjoy all the advantages conceded to the other directors by the statutes of the company. The grantees are obliged to appoint in Bogota, near the national government, an agent duly authorized to resolve all doubts and to present all demands to which this contract may give rise. Reciprocally, and with the same intention, the government shall name a resident agent in the principal establishment of the company on the canal. In every case the difficulties which may arise between the contracting parties shall be submitted to a committee of arbitrators, composed of four individuals, two of whom shall be selected by the executive power from among the members of the federal supreme court, and the other two named by the company. In case of a tie in the votes of this committee, the said arbitrators shall name a fifth party. The decision pronounced by this tribunal shall be final.

ART. 21. The grantees, or those who in future may succeed them in their rights, may transfer those rights to other capitalists or financial companies, but it is absolutely prohibited to cede or mortgage them under any considerations whatever to any nation or foreign government.

ART. 22.* The grantees or their representatives shall forfeit their acquired rights in the following cases:

1st. If they do not deposit within the term stipulated the amount required as security for the execution of the work.

2d. If in the first of the twelve years allowed for the construction of the canal the work is not already begun. In this case the company shall forfeit the sum deposited as a guarantee, and which shall go to the benefit of the republic.

3d. If at the termination of the period fixed by paragraph fifth of article one, the canal is not navigable.

4th. If they do not comply with the provisions of article 21.

5th. If the service of the canal should be interrupted without some superhuman obstacle.

In cases 2, 3, 4, and 5, the federal supreme court shall decide whether the privilege has become null or not.

ART. 23.* In all cases of declaration of nullity, the public lands mentioned in paragraphs 7 and 8 of article 1, and those not alienated among those conceded in article 4, will return to the possession of the republic in the state in which they are found, and without any indemnity whatever, and also the buildings, materials, works, and improvements of which the grantees hold possession in the canal. These shall reserve only their capital, vessels, provisions, and, in general, their movable property.

ART. 24. Five years previous to the expiration of the ninety-nine years of the privilege, the executive power shall appoint a commissioner to examine the condition of the canal and annexes, and, with the knowledge of the company or its agents on the isthmus, to make an official report, describing in every detail the condition of the same and pointing out what repairs may be necessrry. This report will serve to establish in what condition the canal and its dependencies shall be delivered to the national government on the day of expiration of the privilege now granted.

ART. 25. The enterprise of the canal is reputed to be of public utility.

ART. 26. This contract, which will serve as a substitute for the provisions of law 33,

*This article modified by Colombian Government. See decree which follows.

of May 26, 1876, and the clauses of the contract celebrated on the 28th of May of the same year, shall be submitted for the approval of the President of the union and the definite acceptance by the Congress of the nation.

In witness whereof they sign the present in Bogota, on the 20th March, 1878.

EUSTORGIO SALGAR.
LUCIEN N. B. WYSE.

BOGOTA, *March* 23, 1878.

Approved.
The President of the union:

AQUILEO PARRA.

The secretary of the interior and of foreign relations:

EUSTORGIO SALGAR.

DECREES.

The foregoing contract is hereby approved, with the following modifications:

Article 1, with the addition of the following paragraph:

§—It is, however, stipulated and agreed that if, before the payment of the security determined upon in article 2, the Colombian Government should receive any formal proposal, sufficiently guaranteed, in the opinion of the said government, to construct the canal in less time and under more advantageous conditions for the United States of Colombia, said proposal shall be communicated to the grantees or their representatives, that they may be substituted therein, in which case they shall be preferred; but if they do not accept said substitution, the Colombian Government, in the new contract which they may celebrate, shall exact, besides the guarantee mentioned in article 2, the sum of three hundred thousand dollars in coin, which shall be given as indemnity to the grantees.

Article 2, thus:

ART. 2. Within the term of twelve months from the date at which the international commission shall have presented the definite results of their studies, the grantees shall deposit in the bank or banks of London, to be designated by the national executive power, the sum of seven hundred and fifty thousand francs, to the exclusion of all paper money, as security for the execution of the work. The receipt of said banks shall be a voucher for the fulfillment of said deposit. It is understood that if the grantees should lose that deposit by virtue of the stipulations contained in clauses 2 and 3 of article 22 of the present contract, the sum referred to, with interest accrued, shall become *in toto* the property of the Colombian Government. After the conclusion of the canal, said sum, without interest, which latter will in this case belong to the grantees, shall remain for the benefit of the treasury, for the outlays which it may have incurred or may incur in the construction of buildings for the service of the public officers.

Article 3, thus:

ART. 3. If the line of the canal to be constructed from sea to sea should pass to the west and to the north of the imaginary straight line which joins Cape Tiburon with Garachiné Point, the grantees must enter into some amicable arrangement with the Panama Railroad Company, or pay an indemnity, which shall be established in accordance with the provisions of law 46, of August 16, 1867, 'approving the contract celebrated on July 5, 1867, reformatory of the contract of April 15, 1850, for the construction of an iron railroad from one ocean to the other through the Isthmus of Panama.'

In case the international commissions should choose the Atrato or some other stream already navigable as one of the entrances to the canal, the ingress and egress by such stream, and the navigation of its waters, so long as it is not intended to cross the canal shall be open to commerce and free from all imposts.

Article 4, thus:

ART. 4. Besides the lands granted in paragraphs 7 and 8 of article 1, there shall be awarded to the grantees, as an aid for the accomplishment of the work, and not otherwise, five hundred thousand hectares of public lands, with the mines they may comprise, in the localities which the company may select. This award shall be made directly by the national executive power. The public lands situated on the sea-coast, on the borders of the canal or of the rivers, shall be divided in alternate lots between the government and the company, forming areas of from one to two thousand hectares. The measurements for the allotment or locating shall be made at the expense of the grantees, and with the intervention of government commissioners. The public lands thus granted, with the mines they may hold, shall be awarded to the grantees

as fast as the work of construction of the canal progresses, and in accordance with rules to be laid down by the executive power.

Within a belt of two myriameters on each side of the canal, and during five years after the termination of the work, the government shall not have the right to grant other lands beyond the said lots until the company shall have called for the whole number of lots granted by this article.

Article 5, thus:

ART. 5. The government of the republic hereby declares the ports at each end of the canal, and the waters of the latter from sea to sea, to be neutral for all time; and consequently, in case of war among other nations, the transit through the canal shall not be interrupted by such event, and the merchant vessels and individuals of all nations of the world may enter into said ports and travel on the canal without being molested or detained. In general, any vessel may pass freely without any discrimination, exclusion, or preference of nationalities or persons, on payment of the dues and the observance of the rules established by the company for the use of the canal and its dependencies. Exception is to be made of foreign troops, which shall not have the right to pass without permission from Congress, and of the vessels of nations which, being at war with the United States of Colombia, may not have obtained the right to pass through the canal at all times, by public treaties wherein is guaranteed the sovereignty of Colombia over the Isthmus of Panama and over the territory whereon the canal is to be cut, besides the immunity and neutrality of the said canal, its ports, bays, and dependencies, and the adjacent seas.

Article 6, thus:

ART. 6. The United States of Colombia reserves to themselves the right to pass their vessels, troops, ammunitions of war at all times and without paying any dues whatever. The passage of the canal is strictly closed to war vessels of nations at war with another or other nations, and which may not have acquired, by public treaty with the Colombian Governments, the right to pass by the canal at all times.

Article 8, thus:

ART. 8. The executive power shall dictate, for the protection of the financial interests of the republic, the regulations conducive to the prevention of smuggling, and shall have the power to station, at the cost of the nation, the number of men which they may deem necessary for that service.

Out of the indispensable officials for that service, ten shall be paid by the company, and their salaries shall not exceed those enjoyed by employés of the same rank in the Barranquilla custom-house.

The company shall carry gratis through the canal, or on the auxiliary railway, the men destined for the service of the nation, for the service of the state through whose territory the canal may pass, or for the service of the police, with the object of guarding against foreign enemies, or for the preservation of public order, and shall also transport gratis the baggage of such men, their war materials, armament, and clothing which they may need for the service assigned to them.

The subsistence of the public force which may be deemed necessary for the safety of the interoceanic transit shall likewise be at the expense of the company.

Article 13, thus:

ART. 13. The government allows the immigration and free access to the lands and shops of the grantees of all the employés and workingmen of whatever nationality, who may be contracted for the work, or who may come to engage themselves to work on the canal, on condition that such employés or laborers shall submit to the existing laws, and to the regulations established by the company. The government promises them support and protection, and the enjoyment of their rights and guarantees, in conformity with the national constitution and laws, during the time they may sojourn on Colombian territory.

The *national peons* and laborers employed on the work of the canal shall be exempt from all requisition of military service, national as well as of the state.

Article 14, thus:

ART. 14. In order to indemnify the *grantees* of the construction, maintenance, and working expenses incurred by them, they shall have, during the whole period of the privilege, the exclusive right to establish and collect for the passage of the canal and its ports, the dues for light-houses, anchorage, transit, navigation, repairs, pilotage, towage, hauling, stowage, and of station according to the tariff which they may issue, and which they may modify at any time under the following express conditions:

1st. They shall collect these dues, without any exceptional favor, from all vessels in like circumstances.

2d. The tariffs shall be published four months before their enforcement in the Diario Oficial of the government, as well as in the capitals and the principal commercial ports of the countries interested.

3d. The principal navigation dues to be collected shall not exceed the sum of ten francs for each cubic meter resulting from the multiplication of the principle dimensions of the submerged part of the ship in transit (length, breadth, and draught).

4th. The principal dimensions of the ship in transit, that is to say, the maximum exterior length and breadth at the water-line, as well as the greatest draught, shall be the metrical dimension inserted in the official clearance papers, excepting any modifications supervening during the voyage. The ships' captains and the company's agents may demand a new measurement, which operations shall be carried out at the expense of the petitioner; and

5th. The same measurement, that is to say, the number of cubic meters contained in the parallelopipedon circumscribing the submerged part of the ship, shall serve as a basis for the determination of the other accessory dues.

Article 15, thus:

ART. 15. By way of compensation for the rights and exemptions which are allowed to the grantees in this contract, the government of the republic shall be entitled to a share amounting to five per cent. on all collections made by the company, by virtue of the dues which may be imposed in conformity with Article 14, during the first twenty-five years after the opening of the canal to the public service. From the twenty-sixth up to the fiftieth year, inclusive, it shall be entitled to a share of (6%) six per cent; from the fifty-first to the seventy-fifth to seven per cent; and from the seventy-sixth to the termination of the privilege to eight per cent. It is understood that these shares shall be reckoned, as has been said, on the gross income from all sources, without any deductions whatever for expenses, interest on shares, or on loans or debts against the company. The government of the republic shall have the right to appoint a commissioner or agent, who shall intervene in the collections and examine the accounts, and the distribution or payment of the shares coming to the government shall be made in due half-yearly installments. The product of the five, six, seven and eight per cent. shall be distributed as follows:

Four-fifths of it shall go to the government of the republic, and the remaining one-fifth to the government of the state through whose territory the canal may pass.

The company guarantees to the Government of Colombia that the share of the latter shall in no case be less than the sum of two hundred and fifty thousand dollars a year, which is the same as that received as its share in the earnings of the Panama Railroad, so that if in any year the five per cent. share should not reach said sum, it shall be completed out of the common funds of the company.

Article 20, thus:

ART. 20. The Colombian Government may appoint a special delegate in the board of directors of the company whenever it may consider it useful to do so. This delegate shall enjoy the same advantages as are granted to the other directors by the by-laws of the company.

The grantees pledge themselves to appoint in the capital of the union, near the national government, a duly-authorized agent for the purpose of clearing up all doubts and presenting any claims to which this contract may give rise. Reciprocally and in the same sense, the government shall appoint an agent, who shall reside in the principal establishment of the company situated on the line of the canal; and, according to the national constitution, the difficulties which may arise between the contracting parties shall be submitted to the decision of the federal supreme court.

Article 22, thus:

ART. 22. The grantees, or their representatives, shall lose the right hereby acquired in the following cases:

1st. If they do not deposit, on the terms agreed upon, the sum which by way of security must insure the execution of the work.

2d. If, in the first year of the twelve that are allowed for the construction of the canal, the works are not already commenced, in this case the company shall lose the sum deposited by way of security, together with the interest that may have accrued; all of which will remain for the benefit of the republic.

3d. If, at the end of the second period fixed in paragraph 5 of Article 1, the canal is not transitable, in this case also the company shall lose the sum deposited as security; which, with the interests accrued, shall remain for the benefit of the republic.

4th. If they violate the prescriptions of Article 21; and,

5th. If the service of the canal should be interrupted for a longer period than six months without its being occasioned by the acts of God, &c.

In cases 2, 3, 4, and 5, the federal supreme court shall have the right to decide whether the privilege has become annulled or not.

Article 23, thus:

ART. 23. In all cases of decisions of nullity, the public lands mentioned in clauses 7 and 8 of Article 1, and such lands as are not settled or inhabited from among those granted by Article 4, shall revert to the possession of the republic in the condition they may be found in, and without any indemnity whatever, as well as the buildings, materials, works, and improvements which the grantees may possess along the canal and its accessories. The grantees shall only retain their capital, vessels, provisions, and in general all movable property.

Given at Bogota on the seventeenth day of May, eighteen hundred and seventy-eight.

The president of the senate of plenipotentiaries:

RAMON GOMEZ.

The president of the chamber of representatives:

BELISARIO ESPONDA.

The secretary of the senate of plenipotentiaries:

JULIO E. PEREZ.

The secretary of the chamber of representatives:

ENRIQUE GAONA.

BOGOTA, *May* 18, 1878.

Let it be published and enforced.

The President of the Union:

[SEAL.]

JULIAN TRUJILLO.

The secretary of the interior and foreign relations:

FRANCISCO J. ZALDUA.

Note from Mr. Lucien N. B. Wyse, wherein he declares he accepts all the modifications made by law 28 to the contract for the construction of the interoceanic canal.

To the honorable Secretary of the Interior and Foreign Relations:

I have the honor to inform you that I accept each and all of the modifications introduced by Congress to the contract which I celebrated with Señor Eustorgio Salgar, your worthy predecessor in the department of the interior and foreign relations, for the construction of the interoceanic canal, which contract was approved by the executive power under date of March 23 last.

The modifications to which I have alluded are those recorded in law No. 28 of the 18th instant.

I hasten to lay this declaration before the Government of Colombia, so that it may be taken in consideration, in order that said law may be effective in all its parts.

BOGOTA, May 18, 1878.

LUCIEN N. B. WYSE,

Chief of the International Scientific Commission for the Survey of the Isthmus, Member and Delegate from the Board of Directors of the Interoceanic Canal Association.

68.—*Mr. Blaine to Mr. Lowell.*

No. 187.] DEPARTMENT OF STATE,
Washington, June 24, 1881.

SIR: It has fallen under the observation of the President, through the current statements of the European press and other usual channels of communication, that the great powers of Europe may possibly be considering the subject of jointly guaranteeing the neutrality of the interoceanic canal now projected across the Isthmus of Panama.

The United States recognizes a proper guarantee of neutrality as essential to the construction and successful operation of any highway across the Isthmus of Panama, and in the last generation every step was taken by this government that is deemed requisite in the premises. The necessity was foreseen and abundantly provided for, long in advance of any possible call for the actual exercise of power.

In 1846 a memorable and important treaty was negotiated and signed between the United States of America and the Republic of New Granada, now the United States of Colombia. By the thirty-fifth article of that treaty, in exchange for certain concessions made to the United States, we guaranteed "positively and efficaciously" the perfect neutrality of the isthmus and of any interoceanic communications that might be constructed upon or over it for the maintenance of free transit from sea to sea; and we also guaranteed the rights of sovereignty and property of the United States of Colombia over the territory of the isthmus as included within the borders of the State of Panama.

In the judgment of the President this guarantee, given by the United States of America, does not require re-enforcement, or accession, or assent from any other power. In more than one instance this government has been called upon to vindicate the neutrality thus guaranteed, and there is no contingency, now foreseen or apprehended, in which such vindication would not be within the power of this nation.

There has never been the slightest doubt on the part of the United States as to the purpose or extent of the obligation then assumed, by which it became surety alike for the free transit of the world's commerce over whatever land-way or water-way might be opened from sea to sea, and for the protection of the territorial rights of Colombia from aggression or interference of any kind. Nor has there ever been room to question the full extent of the advantages and benefits, naturally due to its geographical position and political relations on the Western continent, which the United States obtained from the owner of the isthmian territory in exchange for that far-reaching and responsible guarantee.

If the foreshadowed action of the European powers should assume tangible shape, it would be well for you to bring to the notice of Lord Granville the provisions of the treaty of 1846, and especially of its thirty-fifth article, and to intimate to him that any movement in the sense of supplementing the guarantee contained therein would necessarily be regarded by this government as an uncalled-for intrusion into a field where the local and general interests of the United States of America must be considered before those of any other power save those of the United States of Colombia, alone, which has already derived and will continue to derive such eminent advantages from the guarantee of this government.

The President deems it due to frankness to be still more explicit on this subject, and to elucidate the views of the United States Government with somewhat of detail, to the end that no uncertainty shall subsist as to the integrity of our motives or the distinctness of our aims.

It is not the wish or the purpose of the United States to interfere with any commercial enterprise in which the citizens or subjects of any foreign power may see fit to embark under a lawful privilege. The fact of the stock and franchises of the Panama Canal or the Panama Railway being owned in Europe, either in whole or principally, is no more a subject of complaint on the part of the United States than is the circumstance that the stock of many of its own great lines of railway is largely held abroad. Such ownership, with its attendant rights, is in the United States amply secured by the laws of the land, and on the Isthmus is doubly secured by the local laws of Colombia, under the superior guarantee of the United States.

Nor, in time of peace, does the United States seek to have any exclusive privileges accorded to American ships in respect to precedence or tolls through an interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway, under the exclusive control of an American corporation. The extent of the privileges of American citizens and ships is measurable under the treaty of 1846 by those of Colombian citizens and ships. It would be our earnest desire and expectation to see the world's peaceful commerce enjoy the same just, liberal, and rational treatment.

It is as regards the political control of such a canal, as distinguished from its merely administrative or commercial regulation, that the President feels called upon to speak with directness and with emphasis. During any war to which the United States of America or the United

States of Colombia might be a party, the passage of armed vessels of a hostile nation through the canal of Panama would be no more admissible than would the passage of the armed forces of a hostile nation over the railway lines joining the Atlantic and Pacific shores of the United States or of Colombia. And the United States of America will insist upon her right to take all needful precautions against the possibility of the isthmus transit being in any event used offensively against her interests upon the land or upon the sea.

The two republics between which the guarantee of neutrality and possession exists have analogous conditions with respect to their territorial extension. Both have a long line of coast on either ocean to protect as well as to improve. The possessions of the United States upon the Pacific coast are imperial in extent and of extraordinary growth. Even at their present stage of development they would supply the larger part of the traffic which would seek the advantages of the canal. The States of California and Oregon, and the Territory of Washington, larger in area than England and France, produce for export more than a ton of wheat for each inhabitant, and the entire freights demanding water transportation eastward, already enormous, are augmenting each year with an accelerating ratio. While the population and products of the Pacific slope are thus increasing upon a vast scale, the railway system connecting the Gulf of Mexico with the interior and with the Great Lakes is being rapidly extended, thus affording additional facilities for enlarging the commerce that must seek the coast-line to the Pacific, of which the projected canal at Panama will form a part, and be as truly a channel of communication between the Eastern and far Western States as our own transcontinental railways. It is the perception of this domestic function of the long-sought water-way between the two seas that border the republic which has caused the project to be regarded as of vital importance by this government. The history of the enterprise is marked from the outset by the numerous expeditions which have, from time to time, been sent out by the United States at large expense to explore the various routes, and thus facilitate the work when the time should be ripe and the vast capital be forthcoming for the undertaking.

If the proposed canal were a channel of communication near to the countries of the Old World, and employed wholly, or almost wholly, by their commerce, it might very properly be urged that the influence of the European powers should be commensurate with their interests. With the exercise of such influence the United States could find no fault, especially if assured of equal participation in the peaceable enjoyment of the commercial facilities so afforded. The case, however, is here reversed, and an agreement between the European states to jointly guarantee the neutrality and in effect control the political character of a highway of commerce, remote from them and near to us, forming substantially a part of our coast-line and promising to become the chief means of transportation between our Atlantic and Pacific States, would be viewed by this government with the gravest concern.

The policy of the United States is one of peace and friendly intercourse with every government and people. This disposition is frankly avowed, and is, moreover, abundantly shown in the fact that our armaments by land and sea are kept within such limits as to afford no ground for distrust or suspicion of menace to other nations. The guarantee entered into by this government in 1846 was manifestly in the interest of peace, and the necessity imposed by circumstances upon the United States of America to watch over a highway between its two coasts was so imperative that the resultant guarantee was the simplest justice to the chief interests concerned. Any attempt to supersede that guaran-

tee by an agreement between European powers, which maintain vast armies and patrol the sea with immense fleets, and whose interest in the canal and its operations can never be so vital and supreme as ours, would partake of the nature of an alliance against the United States, and would be regarded by this government as an indication of unfriendly feeling. It would be but an inadequate response to the good-will we bear them and to our cheerful and constant recognition of their own rights of domestic policy, as well as those resulting from proximity or springing from neighborly interest.

The great European powers have repeatedly united in agreements such as guarantees of neutrality touching the political condition of states like Luxembourg, Belgium, Switzerland, and parts of the Orient, where the localities were adjacent or where the interests involved concerned them nearly and deeply. Recognizing these facts, the United States has never offered to take part in such agreements or to make any agreements supplementary to them.

While thus observing the strictest neutrality with respect to complications abroad, it is the long-settled conviction of this government that any extension to our shores of the political system by which the great powers have controlled and determined events in Europe would be attended with danger to the peace and welfare of this nation.

While the Government of the United States has no intention of initiating any discussion upon this subject, it is proper that you should be prepared, in case of concerted action or conference or exchange of opinions thereon between the great powers of Europe, to communicate to the government to which you are accredited the views of the President as frankly and as fully as they are herein set forth. And at suitable times in your personal and friendly intercourse with your colleagues of the diplomatic body at London, you may find it proper to give discreet expression to the policy and motives of your government in the premises.

You will be careful, in any conversations you may have, not to represent the position of the United States as the development of a new policy or the inauguration of any advanced, aggressive steps to be taken by this government. It is nothing more than the pronounced adherence of the United States to principles long since enunciated by the highest authority of the government, and now, in the judgment of the President, firmly inwoven as an integral and important part of our national policy.

In his address upon taking the oath of office the President distinctly proclaimed the position which the Government of the United States would hold upon this question, and if the European cabinets have failed to observe or give due heed to the declarations then made, it may be well for you on some proper occasion to call the attention of the minister of foreign affairs to the language used by the President.

I am, &c.,

JAMES G. BLAINE.

Sent *mutatis mutandis* to the United States ministers in Europe.

69.—*Mr. Hoppin to Mr. Blaine.*

No. 218.] LEGATION OF THE UNITED STATES,
London, November 11, 1881. (Received November 26.)

SIR: Referring to your instructions No. 187, of the 24th of June last, and No. 188, of the 25th of June last, to Mr. Lowell, in relation to the

proposed guarantee by European powers of the neutrality of the projected canal across the Isthmus of Panama, I have the honor to acquaint you that Mr. Lowell, agreeably to the suggestion in No. 187, left a copy of that instruction at the foreign office on the 12th of July last. I have to-day received a letter from Lord Granville in reply to that instruction, and I beg to inclose a copy of the same herewith.

I have, &c.,

W. J. HOPPIN.

[Inclosure with No. 218.]

Lord Granville to Mr. Hoppin.

FOREIGN OFFICE, *November* 10, 1881.

SIR: You are doubtless aware that Mr. Lowell left with this department on the 12th of July last a copy of a dispatch which had been addressed to him by Mr. Blaine on the 24th of June, in which the Secretary of State calls attention to the right and duty which are imposed on the United States Government under the treaty signed in 1846 between the United States of America and the Republic of New Granada, now known as the United States of Colombia, to guarantee the neutrality of the interoceanic canal which is projected across the Isthmus of Panama. Mr. Blaine further points out the special interest which the United States have in the preservation of this neutrality, and in preventing the use of the canal in a manner detrimental to themselves during any war in which the United States or Colombia might be a party.

But the point on which special stress is laid in this dispatch is the objection entertained by the Government of the United States to any concerted action of the European powers for the purpose of guaranteeing the neutrality of the canal or determining the conditions of its use.

I have now the honor to state to you that although some time has elapsed since the views of the United States Government on this question were communicated to Her Majesty's Government, they have not failed in the mean while to bestow upon it all the consideration to which the importance of the subject gives it every claim, and if it has not received an earlier recognition the delay has been mainly caused by the suspense which so long existed as to the termination of the sad tragedy of the 2d of July.

Her Majesty's Government have noted with satisfaction the statement made by Mr. Blaine that there is no intention on the part of the Government of the United States to initiate any discussion upon this subject, and in the same spirit I do not now propose to enter into a detailed argument in reply to Mr. Blaine's observations.

I should wish, therefore, merely to point out to you that the position of Great Britain and the United States with reference to the canal, irrespective of the magnitude of the commercial relations of the former power with countries to and from which, if completed, it will form the highway, is determined by the engagements entered into by them, respectively, in the convention which was signed at Washington on the 19th of April, 1850, commonly known as the Clayton-Bulwer treaty, and Her Majesty's Government rely with confidence upon the observance of all the engagements of that treaty.

I have, &c.,

GRANVILLE.

70.—*Mr. Blaine to Mr. Lowell.*

270.] DEPARTMENT OF STATE,
Washington, November 19, 1881.

SIR: In pursuance of the premises laid down in my circular note of June 24 of this year touching the determination of this government with respect to the guarantee of neutrality for the interoceanic canal at Panama, it becomes my duty to call your attention to the convention of April 19, 1850, between Great Britain and the United States, commonly known as the Clayton-Bulwer treaty.

According to the articles of that convention the high contracting parties, in referring, to an interoceanic canal through Nicaragua, agreed "that

neither the one nor the other will ever obtain or maintain for itself any exclusive control over said ship-canal, and that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof." In a concluding paragraph the high contracting parties agreed "to extend their protection by treaty stipulations to any other practical communications, whether by canal or railway, across the Isthmus * * * which are now proposed to be established by way of Tehuantepec or Panama."

This convention was made more than thirty years ago, under exceptional and extraordinary conditions which have long since ceased to exist—conditions which at best were temporary in their nature, and which can never be reproduced.

The remarkable development of the United States on the Pacific coast since that time has created new duties for this government, and devolved new responsibilities upon it, the full and complete discharge of which requires in the judgment of the President some essential modifications in the Clayton-Bulwer treaty. The interests of Her Majesty's Government involved in this question, in so far as they may be properly judged by the observation of a friendly power, are so inconsiderable in comparison with those of the United States that the President hopes a readjustment of the terms of the treaty may be reached in a spirit of amity and concord.

The respect due to Her Majesty's Government demands that the objections to the perpetuity of the convention of 1850, as it now exists, should be stated with directness and with entire frankness. And among the most salient and palpable of these is the fact that the operation of the treaty practically concedes to Great Britain the control of whatever canal may be constructed.

The insular position of the home government, with its extended colonial possessions, requires the British Empire to maintain a vast naval establishment, which, in our continental solidity, we do not need, and in time of peace shall never create. If the United States binds itself not to fortify on land, it concedes that Great Britain, in the possible case of a struggle for the control of the canal, shall at the outset have an advantage which would prove decisive, and which could not be reversed except by the expenditure of treasure and force. The presumptive intention of the treaty was to place the two powers on a plane of perfect equality, with respect to the canal, but in practice, as I have indicated, this would prove utterly delusive, and would instead surrender it, if not in form, yet in effect, to the control of Great Britain.

The treaty binds the United States not to use its military force in any precautionary measure, while it leaves the naval power of Great Britain perfectly free and unrestrained; ready at any moment of need to seize both ends of the canal, and render its military occupation on land a matter entirely within the discretion of Her Majesty's Government.

The military power of the United States, as shown by the recent civil war, is without limit, and in any conflict on the American continent altogether irresistible. The Clayton-Bulwer treaty commands this government not to use a single regiment of troops to protect its interests in connection with the interoceanic canal, but to surrender the transit to the guardianship and control of the British navy. If no American soldier is to be quartered on the Isthmus to protect the rights of his country in the interoceanic canal, surely, by the fair logic of neutrality, no war vessel of Great Britain should be permitted to appear in the waters that control either entrance to the canal.

A more comprehensive objection to the treaty is urged by this govern-

ment. Its provisions embody a misconception of the relative positions of Great Britain and the United States with respect to the interests of each government in questions pertaining to this continent. The Government of the United States has no occasion to disavow an aggressive disposition. Its entire policy establishes its pacific character, and among its chief aims is to cultivate the most friendly and intimate relations with its neighbors, both independent and colonial. At the same time, this government, with respect to European states, will not consent to perpetuate any treaty that impeaches our right and long-established claim to priority on the American continent.

The United States seeks only to use for the defense of its own interests the same forecast and provision which Her Majesty's Government so emphatically employs in defense of the interests of the British Empire. To guard her Eastern possessions, to secure the most rapid transit for troops and munitions of war, and to prevent any other nation having equal facilities in the same direction, Great Britain holds and fortifies all the strategic points that control the route to India. At Gibraltar, at Malta, at Cyprus, her fortifications give her the mastery of the Mediterranean. She holds a controlling interest in the Suez Canal, and by her fortifications at Aden and on the island of Perim she excludes all other powers from the waters of the Red Sea and renders it a *mare clausum*. It would, in the judgment of the President, be no more unreasonable for the United States to demand a share in these fortifications, or to demand their absolute neutralization, than for England to make the same demand in perpetuity from the United States with respect to the transit across the American continent. The possessions which Great Britain thus carefully guards in the East are not of more importance to her than is the Pacific slope, with its present development and assured growth, to the Government of the United States.

The States and Territories appurtenant to the Pacific Ocean and dependent upon it for commercial outlet, and hence directly interested in the canal, comprise an area of nearly eight hundred thousand square miles, larger in extent than the German Empire and the four Latin countries of Europe combined.

This vast region is but fairly beginning its prosperous development. Six thousand miles of railway are already constructed within its limits, and it is a moderate calculation to say that within the current decade the number of miles will at least be doubled. In the near future the money value of its surplus for export will be as large as that of British India, and perhaps larger. Nor must it be forgotten that India is but a distant colony of Great Britain, while the region on the Pacific is an integral portion of our national Union, and is of the very form and body of our state. The inhabitants of India are alien from England in race, language, and religion. The citizens of California, Oregon, and Nevada, with the adjacent Territories, are of our own blood and kindred —bone of our bone and flesh of our flesh.

Great Britain appreciates the advantage and perhaps the necessity of maintaining, at the cost of large military and naval establishments, the interior and nearest route to India, while any nation with hostile intent is compelled to take the longer route and travel many thousand additional miles through dangerous seas. It is hardly conceivable that the same great power which considers herself justified in taking these precautions for the safety of a remote colony on another continent should object to the United States adopting similar but far less demonstrative measures for the protection of the distant shores of her own domain, for the drawing together of the extremes of the Union in still closer bonds

of interest and sympathy, and for holding, in the quiet determination of an honorable self-defense, the absolute control of the great waterway which shall unite the two oceans, and which the United States will always insist upon treating as part of her coast line.

If a hostile movement should at any time be made against the Pacific coast, threatening danger to its people and destruction to its property, the Government of the United States would feel that it had been unfaithful to its duty and neglectful towards its own citizens if it permitted itself to be bound by a treaty which gave the same right through the canal to a war-ship bent on an errand of destruction that is reserved to its own navy, sailing for the defense of our coast and the protection of the lives of our people. And as England insists by the might of her power that her enemies in war shall strike her Indian possessions only by doubling the Cape of Good Hope, so the Government of the United States will equally insist that the interior, more speedy, and safer route of the canal shall be reserved for ourselves, while our enemies, if we shall ever be so unfortunate as to have any, shall be remanded to the voyage around Cape Horn.

A consideration of controlling influence in this question is the well-settled conviction on the part of this government that only by the United States exercising supervision can the Isthmus canals be definitely and at all times secured against the interference and obstruction incident to war. A mere agreement of neutrality on paper between the great powers of Europe might prove ineffectual to preserve the canal in time of hostilities. The first sound of a cannon in a general European war would in all probability annul the treaty of neutrality, and the strategic position of the canal, commanding both oceans, might be held by the first naval power that could seize it. If this should be done the United States would suffer such grave inconvenience and loss in her domestic commerce as would enforce the duty of a defensive and protective war on her part for the mere purpose of gaining that control which in advance she insists is due to her position and demanded by her necessities.

I am not arguing or assuming that a general war, or any war at all, is imminent in Europe. But it must not be forgotten that within the past twenty-five years all the great powers of Europe have been engaged in war; most of them more than once. In only a single instance in the past hundred years has the United States exchanged a hostile shot with any European power. It is in the highest degree improbable that for a hundred years to come even that experience will be repeated.

It consequently becomes evident that the one conclusive mode of preserving any Isthmus canal from the possible distraction and destruction of war is to place it under the control of that government least likely to be engaged in war, and able, in any and every event, to enforce the guardianship which she shall assume.

For self-protection to her own interests, therefore, the United States in the first instance asserts her right to control the Isthmus transit. And, secondly, she offers by such control that absolute neutralization of the canal as respects European powers which can in no other way be certainly attained and lastingly assured.

Another consideration forcibly suggests the necessity of modifying the convention under discussion. At the time it was agreed to, Great Britain and the United States were the only nations prominent in the commerce of Central and South America. Since that time other leading nations have greatly enlarged their commercial connections with that country, and are to-day contending for supremacy in the trade of those shores. Within the past four years, indeed, the number of French

and German vessels landing on the two coasts of Central America far exceeds the number of British vessels.

While, therefore, Great Britain and the United States may agree to do nothing, and, according to the present convention, each remains bound to the other in common helplessness, a third power, or a fourth, or a combination of many, may step in and give direction to the project which the Clayton-Bulwer treaty assumed was under the sole control of the two English-speaking nations. Indeed, so far as the canal scheme now projected at Panama finds a national sponsor or patron, it is in the Republic of France, and the non-intervention enjoined upon this country by the Clayton-Bulwer treaty, if applied to that canal, would paralyze the arm of the United States in any attempt to assert the plain rights and privileges which this government acquired through a solemn treaty with the Republic of Colombia anterior to the Clayton-Bulwer convention, so that the modification of the treaty of 1850, now sought, is not only to free the United States from unequal and inequitable obligations to Great Britain, but also to empower this government to treat with all other nations seeking a foothold on the Isthmus on the same basis of impartial justice and independence.

One of the motives that originally induced this government to assent to the Clayton-Bulwer treaty, not distinctly expressed in the instrument, but inferable from every line of it, was the expected aid of British capital in the construction of the Nicaraguan canal. That expectation has not been realized, and the changed condition of this country since 1850 has diminished, if it has not entirely removed from consideration, any advantage to be derived from that source. Whenever, in the judgment of the United States Government, the time shall be auspicious and the conditions favorable for the construction of the Nicaraguan canal, no aid will be needed outside of the resources of our own government and people; and while foreign capital will always be welcomed and never repelled, it cannot henceforth enter as an essential factor in the determination of this problem.

It is earnestly hoped by the President that the considerations now presented will have due weight and influence with Her Majesty's Government, and that the modifications of the treaty desired by the United States will be conceded in the same friendly spirit in which they are asked. The following is a summary of the changes necessary to meet the views of this government:

First. Every part of the treaty which forbids the United States fortifying the canal and holding the political control of it in conjunction with the country in which it is located to be canceled.

Second. Every part of the treaty in which Great Britain and the United States agree to make no acquisition of territory in Central America, to remain in full force. As an original proposition, this government would not admit that Great Britain and the United States should be put on the same basis, even negatively, with respect to territorial acquisitions on the American continent, and would be unwilling to establish such a precedent without full explanation. But the treaty contains that provision with respect to Central America, and if the United States should seek its annulment, it might give rise to erroneous and mischievous apprehensions among a people with whom this government desires to be on the most friendly terms. The United States has taken special occasion to assure the Spanish-American republics to the south of us that we do not intend and do not desire to cross their borders or in any way disturb their territorial integrity, and we shall not willingly incur the risk of a misunderstanding by annulling the

clauses in the Clayton-Bulwer treaty which forbid such a step with Central America. The acquisition of military and naval stations necessary for the protection of the canal and voluntarily ceded to the United States by the Central American States, not to be regarded as a violation of the provisions contained in the foregoing.

Third. The United States will not object to maintaining the clause looking to the establishment of a free port at each end of whatever canal may be constructed, if England desires it to be retained.

Fourth. The clause in which the two governments agreed to make treaty stipulations for a joint protectorate of whatever railway or canal might be constructed at Tehuantepec or Panama has never been perfected. No treaty stipulations for the proposed end have been suggested by either party, although citizens of the United States long since constructed a railway at Panama, and are now engaged in the same work at Tehuantepec. It is a fair presumption, in the judgment of the President, that this provision should be regarded as absolute by the non-action and common consent of the two governments.

Fifth. The clause defining the distance from either end of the canal where in time of war captures might be made by either belligerent on the high seas was left incomplete, and the distance was never determined. In the judgment of the President, speaking in the interest of peaceful commerce, this distance should be made as liberal as possible, and might, with advantage, as a question relating to the high seas and common to all nations, be a matter of stipulation between the great powers of the world.

In assuming as a necessity the political control of whatever canal or canals may be constructed across the Isthmus, the United States will act in entire harmony with the governments within whose territory the canals shall be located. Between the United States and the other American republics there can be no hostility, no jealousy, no rivalry, no distrust. This government entertains no design in connection with this project for its own advantage which is not also for the equal or greater advantage of the country to be directly and immediately affected. Nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees and will by public proclamation declare at the proper time, in conjunction with the republic on whose soil the canal may be located, that the same rights and privileges, the same tolls and obligations for the use of the canal, shall apply with absolute impartiality to the merchant marine of every nation on the globe. And equally in time of peace, the harmless use of the canal shall be freely granted to the war vessels of other nations. In time of war, aside from the defensive use to be made of it by the country in which it is constructed and by the United States, the canal shall be impartially closed against the war vessels of all belligerents.

It is the desire and determination of the United States that the canal shall be used only for the development and increase of peaceful commerce among all the nations, and shall not be considered a strategic point in warfare which may tempt the aggression of belligerents or be seized under the compulsions of military necessity by any of the great powers that may have contests in which the United States has no stake and will take no part.

If it be asked why the United States objects to the assent of European governments to the terms of neutrality for the operation of the canal, my answer is that the right to assent implies the right to dissent, and thus the whole question would be thrown open for contention as an international issue. It is the fixed purpose of the United States to con-

fine it strictly and solely as an American question, to be dealt with and decided by the American Government.

In presenting the views contained herein to Lord Granville, you will take occasion to say that the Government of the United States seeks this particular time for the discussion as most opportune and auspicious. At no period since the peace of 1783 have relations between the British and American Governments been so cordial and friendly as now. And I am sure Her Majesty's Government will find in the views now suggested and the propositions now submitted additional evidence of the desire of this government to remove all possible grounds of controversy between two nations which have so many interests in common and so many reasons for honorable and lasting peace.

You will, at the earliest opportunity, acquaint Lord Granville with the purpose of the United States touching the Clayton-Bulwer treaty, and in your own way you will impress him fully with the views of your government.

I refrain from directing that a copy of this instruction be left with his lordship, because in reviewing the case I have necessarily been compelled, in drawing illustrations from British policy, to indulge somewhat freely in the *argumentum ad hominem.*

This course of reasoning in an instruction to our own minister is altogether legitimate and pertinent, and yet might seem discourteous if addressed directly to the British Government. You may deem it expedient to make this explanation to Lord Granville, and if, afterwards, he shall desire a copy of this instruction, you will of course furnish it.

I am, &c.,

JAMES G. BLAINE.

71.—*Mr. Blaine to Mr. Lowell.*

No. 281.] DEPARTMENT OF STATE,
Washington, November 29, 1881.

SIR: One week after mailing my instruction to you, on the 19th instant, touching the presentation to Her Majesty's Government of a proposal for the modification of the convention between the two countries of April 19, 1850, better known as the Clayton-Bulwer treaty, I received Mr. Hoppin's No. 218, of the 11th instant, communicating the response of Lord Granville to my circular note of the 24th of June last, in relation to the neutrality of any canal across the Isthmus of Panama. I regret that Mr. Hoppin should not have advised me by telegraph of the purport of his lordship's reply, as it would have enabled me to present the arguments of my dispatch of the 19th instant in a more specific form, as meeting a positive issue, rather than as generally dealing with a subject which, for thirty years, has been regarded in but one light by the public opinion of the United States. It seems proper now, however, in reply to his lordship's note of November 10, to give a summary of the historical objections to the Clayton-Bulwer treaty, and the very decided differences of opinion between the two governments to which its interpretation has given rise.

I need hardly point out to you the well-known circumstance that, even at the time of the conclusion of the Clayton-Bulwer treaty, a very considerable opposition was shown thereto on the part of the far-sighted men in public life who correctly estimated the complications which the uncertain terms of that compact might occasion. It was ably contended in Congress that its provisions did not, even then, suffice to meet the

real points at issue with respect to the guarantee of the neutrality of the whole American isthmus on bases comporting with the national interests of the United States, and the differences of interpretation became soon after so marked as to warrant the extreme proposal of Her Majesty's Government to refer them to the arbitration of a friendly power.

The justice of those doubts became still more evident six years later, when the pretensions put forth by Her Majesty's Government toward territorial protection, if not absolute control, of portions of Nicaragua and of the outlying Bay Islands brought up the precise question of how far the provisions of the Clayton-Bulwer compact operated to restrain the projected movement, and thereupon the interpretations respectively put upon that instrument by the United States and Great Britain were perceived to be in open conflict. The attempt made in the Clarendon-Dallas treaty, which was negotiated on the 17th of October, 1856, to reconcile these opposing contentions and to place the absolute and independent sovereignty of Nicaragua over its teritory on an unmistakable footing, so far as the United States and Great Britain were concerned, failed to be completed by reason of the rejection by Her Majesty's Government of an amendment introduced by the Senate into the Clarendon-Dallas project. From that time onward the inability of the two governments to agree upon a common interpretation of the letter and spirit of the Clayton-Bulwer treaty may be accepted as a historical fact.

In the discussions between the two governments which attended the failure of the Clarendon-Dallas treaty the attitude of the United States with respect to the Clayton-Bulwer treaty was amply defined. As early as the 12th of March, 1857, I find that General Cass, then Secretary of State, in the course of a conference with Lord Napier, Her Majesty's representative,

> Passed some reflections on the Clayton-Bulwer treaty; he had voted for it, and in doing so he believed that it abrogated all intervention on the part of England in the Central American territory. The British Government had put a different construction on the treaty, and he regretted the vote he had given in its favor. (Dispatch of Lord Napier to the Earl of Clarendon, March 12, 1857.)

On the 6th of May, 1857, President Buchanan, in an audience given to Lord Napier, and in response to his lordship's suggestion that if the attempted adjustment of the difference between the governments as to the Clarendon-Dallas treaty should fail, the Clayton-Bulwer treaty remained to fall back upon, characterized that instrument in much stronger terms than General Cass had done. To quote Lord Napier's words:

> The President denounced the Clayton-Bulwer treaty as one which has been fraught with misunderstanding and mischief from the beginning. It was concluded under the most opposite constructions by the contracting parties. If the Senate had imagined that it could obtain the interpretation placed upon it by Great Britain it would not have passed. If he had been in the Senate at the time that treaty never would have been sanctioned. (Dispatch of Lord Napier to the Earl of Clarendon, May 6, 1857.)

These views are more explicitly and formally repeated in a note addressed by Secretary Cass to Lord Napier on the 29th of May, 1857. He says:

> The Clayton-Bulwer treaty, concluded in the hope that it would put an end to the differences which had arisen between the United States and Great Britain concerning Central American affairs, had been rendered inoperative in some of its most essential provisions by the different constructions which had been reciprocally given to it by the parties. And little is hazarded in saying that, had the interpretation since put upon the treaty by the British Government, and yet maintained, been anticipated, it would not have been negotiated under the instructions of any Executive of the United States nor ratified by the branch of the government intrusted with the power of ratification.

The publicity of these statements, and the strong feeling which then prevailed in all quarters that the Clayton-Bulwer convention was inadequate to reconcile the opposite views of Great Britain and the United States towards Central America, led to a very decided conviction that the treaty should be abrogated. Lord Napier reflected this growing impression when, on the 22d of June, 1857, he wrote to Lord Clarendon that—

> It is probable that if the pending discussions regarding Central America be not closed during the present summer, an attempt will be made in the next session of Congress to set aside the Clayton-Bulwer treaty. * * * There can be no doubt of the views of the President and Cabinet on this matter.

Before this tendency could, however, find its expression in any official act, a movement on the part of Her Majesty's Government placed the whole matter in a new aspect. Sir William Gore Ouseley was sent out, October 30, 1857, as a special minister, with the double purpose of concluding with the Central American states, and especially with Guatemala and Honduras, settlements of the questions relative to the Bay Islands, the Mosquito territory, and the boundaries of British Honduras, and also of visiting Washington on the way, and conferring with the Secretary of State of the United States for the purpose of ascertaining the views of his government, and establishing "a perfect understanding with the United States upon the points respecting which differences have hitherto existed between the two countries."

Among these differences was now superadded to the territorial question of Mosquito and the islands, the very question which to-day most concerns us, the question of interoceanic communication, which had for some time been the occasion of correspondence between General Cass and Lord Napier, and in relation to which General Cass wrote, on the 20th of October, 1857, as follows:

> I have thus endeavored to meet the frank suggestions of your lordship by restating with corresponding frankness the general policy of the United States with respect to the governments and the interoceanic transits of Central America. But since your lordship has referred to the Clayton-Bulwer treaty of 1850, as contemplating a harmonious course of action and counsel between the contracting parties in the settlement of Central American interests, you will pardon me for reminding your lordship that the differences which this treaty was intended to adjust between the United States and Great Britain still remain unsettled, while the treaty itself has become the subject of new and embarrassing complications.

Prior to the arrival of Sir William Ouseley in the United States Lord Napier held an important interview with President Buchanan on the 19th of October, 1857, with the object of obtaining "further elucidation of the opinions of the President with reference to the adjustment of the Clayton-Bulwer treaty." On that occasion Lord Napier declared that he believed it the intention of Her Majesty's Government, in Sir William Ouseley's mission, "to carry the Clayton-Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States; but to do so by separate negotiation with the Central American republics, in lieu of a direct engagement with the Federal Government," and asked that, pending the negotiation intrusted to Sir William Ouseley, "no proposal to annul the [Clayton-Bulwer] treaty would be sanctioned or encouraged" by the President or the members of the United States Government. To this the President cheerfully consented, and promised to modify the statements in his annual message to Congress accordingly, and under no circumstances to countenance any attempt against the Clayton-Bulwer treaty in Congress.

Matters being in this state, with Sir William Ouseley's mission announced, and the benevolently expectant attitude of the United States

toward it assured, Lord Napier, on the 27th of October, 1857, in conference with General Cass, brought up contingently, as a discarded alternative of his government, a former proposal to refer the disputed questions to arbitration.

> The general remarked in reply [says Lord Napier, writing to the Earl of Clarendon] that he did not repudiate the principle of arbitration on all occasions; he had invoked it, and would do so again where it seemed justly applicable; but that in this matter it was declined by the American Government for the following reasons: The language of the treaty was so clear that in his opinion there ought not to be two opinions about it. * * * Then it was a mere question of the interpretation of the English language, and he held that a foreign government was not so competent to decide in such a question as the United States and England, who possessed that language in common.

The Earl of Clarendon, in reply, approved of Lord Napier's course in broaching anew the suggestion of arbitration, and authorized him to renew formally in writing the offer to refer the disputed questions arising out of the interpretation of the Clayton-Bulwer treaty to the decision of any European power (instruction of November 13, 1857), and this was accordingly done by Lord Napier in a note to General Cass dated November 30, 1857.

In his annual message to Congress in December, 1857, President Buchanan, after narrating the negotiation and failure of the Clarendon-Dallas treaty, said:

> The fact is, that when two nations like Great Britain and the United States, mutually desirous as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent and to commence anew. * * * Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate.

Meanwhile the Earl of Clarendon had instructed Sir William Ouseley, under date of November 19, 1857, "not to commit Her Majesty's Government to any course whatever in respect to the Bay Islands till the intentions of the Congress of the United States in regard to the treaty of 1850 are clearly ascertained."

The situation, then, at the close of 1857 presented a triple dead-lock. The United States had agreed not to move toward the abrogation of the treaty until it could be seen what interpretation of its provisions would result from Sir William Ouseley's mission. Sir William had received positive instructions not to move until the United States should decide whether to abrogate the treaty or not, and Lord Napier was forbidden to move until the United States should make formal answer to the proposal for arbitration. The instructions of Lord Clarendon to Lord Napier, January 22, 1858, contained these words:

> We are decidedly of opinion that it would neither be consistent with our dignity or our interest to make any proposal to the United States Government until we have received a formal answer to our formal offer of arbitration. In event of the offer being refused, it will be a great and hardly justifiable proof of the spirit of conciliation by which we are animated if we then show ourselves disposed to abrogate the Clayton-Bulwer treaty; but we must not be in too great haste.

In order, apparently, to break this dead-lock, Lord Napier wrote to General Cass, February 17, 1858, that—

> Something in the nature of an alternative was thus offered to the American Cabinet. Should the expedient of arbitration be adopted a great portion of Sir William Ouseley's duty would be transferred to other agencies. Should arbitration be declined, it was hoped that the efforts of Her Majesty's envoy would result in a settlement agreeable to the United States, inasmuch as in essential points it would carry the treaty of 1850 into operation in a manner practically conformable to the American interpretation of that instrument.

On the 10th of March, 1858, the Earl of Malmesbury, who had succeeded Lord Clarendon in the foreign office, instructed Lord Napier that until an answer was returned to the proposal for arbitration "no further steps can be taken by Her Majesty's Government with that of the United States in regard to that matter;" and, further, that—

When this point is cleared up, Her Majesty's Government, supposing that the Government of the United States decline arbitration, will have to determine whether they should originate a proposal for the abrogation of the Clayton-Bulwer treaty or adopt any other course which the circumstances at the moment may seem to recommend.

It appears, however, that the proposal to abrogate the treaty which Lord Malmesbury reserved the right to originate had already been communicated to the Government of the United States by Lord Napier, under instructions from Lord Clarendon. In a dispatch dated March 22, 1858, Lord Napier wrote:

The Earl of Clarendon authorized me to inform General Cass that Her Majesty's Government would not decline the consideration of a proposal for the abrogation of the treaty by mutual concert. * * * I have, accordingly, on two occasions, informed General Cass that if the Government of the United States be still of the same mind, and continue to desire the abrogation of the treaty of 1850, it would be agreeable to Her Majesty's Government that they should insert a proposal to that effect in their reply to my note respecting arbitration.

Lord Napier further reports in detail the conversations had with General Cass as to the most proper method of effecting such abrogation, if agreed to.

In reply to this dispatch of Lord Napier, the Earl of Malmesbury instructed him, April 8, 1858, that his action was approved, and that he should confine himself to pressing for an answer to his proposal for arbitration. His lordship added these significant words:

Her Majesty's Government, if the initiative is still left to them by the unwillingness of the United States themselves to propose abrogation, desire to retain full liberty as to the manner and form in which any such proposal shall be laid on their behalf before the Cabinet at Washington. * * * The Clayton-Bulwer treaty has been a source of unceasing embarrassment to this country, and Her Majesty's Government, if they should be so fortunate as to extricate themselves from the difficulties which have resulted from it, will not involve themselves, directly or indirectly, in any similar difficulties for the future.

The answer of General Cass to Lord Napier's several proposals was, briefly, to the effect that pending the results expected from Sir William Ouseley's mission to the Central American States the United States could not adopt the alternative of arbitration, "even if it had not been twice rejected before," and, that if—

The President does not hasten to consider now the alternative of repealing the treaty of 1850, it is because he does not wish prematurely to anticipate the failure of Sir William Ouseley's mission, and is disposed to give a new proof to Her Majesty's Government of his sincere desire to preserve the amicable relations which now happily subsist between the two countries. (General Cass to Lord Napier, April 6, 1858.)

In this posture of affairs the Earl of Malmesbury instructed Sir William Ouseley to open direct negotiations with the Central American States, and on the 18th of August instructed Lord Napier to inform the Government of the United States of the intentions and object of her Majesty's Government in the premises. His lordship added:

Modification, arbitration, and abrogation of the Clayton-Bulwer treaty have been *flatly rejected* [the italics are my own]. Great Britain and Nicaragua are now about to treat as independent States.

I have emphasized the phrase "flatly rejected" in view of a subse-

quent instruction of the Earl of Malmesbury to Lord Napier on the 8th of December, 1858, wherein he said:

> I think you would have done better if you had not too pointedly brought before the United States Government the notion that the British Government might view with favor a proposal to abrogate the Clayton-Bulwer treaty.

It is not difficult, in following this narrative, to discern that General Cass, though not desiring to express it, had an additional motive for declining at that particular time to propose the abrogation of the Clayton-Bulwer treaty. He did not desire by such proposed abrogation to indicate his willingness that Sir William Gore Ouseley should make treaties with the separate states of Central America, unrestrained by the clauses of the Clayton-Bulwer treaty inhibiting the extension of British power in that region. General Cass, with his accustomed caution and wisdom, clearly perceived that for the United States to propose abrogation on the very eve of Sir William Ouseley's mission would lead to injurious inferences, and would imply conclusions which the United States was not prepared to admit.

Objectionable as General Cass thought the Clayton-Bulwer treaty, he thought it was better than giving the implied consent of this government that Great Britain should obtain such treaties as the force of her power might secure in Central America.

The subsequent note of Lord Malmesbury, not strained by an uncharitable construction, throws additional light on the subject, and confirms the wisdom of General Cass in declining to propose abrogation at that time. And, besides, General Cass evidently desired to retain those very clauses of the Clayton-Bulwer treaty to which, in my dispatch of the 19th, I proposed on the part of this government to adhere.

I have dwelt with somewhat of detail on this particular historic episode, partly because it admirably illustrates the spirit with which both governments have regarded the Clayton-Bulwer treaty from the first, and partly because it had more direct bearing on the question of the guarantee of any isthmian transit than any other discussion of the time. In perusing the voluminous correspondence, unprinted as well as that printed and submitted at the time to Congress and to Parliament, I am more than ever struck by the elastic character of the Clayton-Bulwer treaty, and the admirable purpose it has served as an ultimate recourse on the part of either government to check apprehended designs in Central America on the part of the other; although all the while it was frankly admitted on both sides that the engagements of the treaty were misunderstandingly entered into, imperfectly comprehended, contradictorily interpreted, and mutually vexatious.

I am, as I must confess, strengthened in this impression by the circumstance that, in his response to my dispatch of the 24th of June last, Earl Granville takes the ground that the position of Great Britain and the United States toward the projected Panama Canal is determined by the Clayton-Bulwer treaty. It does not seem likely to become a subject for discussion how far the engagements of that compact in reality extend to the Isthmus of Panama under the provisions of Article VIII thereof in the same precise sense in which they extend to the projected Nicaraguan transit.

For it will be observed that this article does not stretch the guarantees and restrictions of Article I over either the Tehuantepec route through Mexican territory or the Panama route through Colombian territory. It is in terms an agreement to extend the protection of both countries, by treaty stipulations, to those or any other practicable water-

ways or railways, from ocean to ocean, across the Isthmus, outside of Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America. So far as this inchoate agreement to hereafter agree is applicable to the Panama transit, I have amply shown, in my No. 270 of the 19th instant, that the obligations embraced on the part of the United States in concluding the prior convention with the Republic of New Granada (now Colombia) in 1846 require that the United States should be freed from unequal and inequitable obligations to Great Britain under the vague and, as yet, unperfected compact of 1850.

My main object in writing this instruction has been to strengthen your hands in any discussion which may now ensue as to the benefits of the Clayton-Bulwer treaty and the mutual interest of the two countries in conserving it as the basis of a settlement of all disputes between them touching Central American and isthmian questions. It will be seen that, from the time of its conclusion in 1850 until the end of 1858, its provisions were thrice made the basis of a proposal to arbitrate as to their meaning, that modification and abrogation have been alike contingently considered, and that its vexatious and imperfect character has been repeatedly recognized on both sides. The present proposal of this government is to free it from those embarrassing features, and leave it, as its framers intended it should be, a full and perfect settlement, for all time, of all possible issues between the United States and Great Britain with regard to Central America.

If in your conferences with Earl Granville it should seem necessary, you will make free use of the precedents I have cited, and should you, within the discretionary limits confided at the end of my No. 270, have given a copy thereof to his lordship, you are equally at liberty to let him have a copy of this also, with the same explanation, that it is for your use, and not written as a formal note for communication to Her Majesty's Government.

I am, &c.,

JAMES G. BLAINE.

72.—*Mr. Lowell to Mr. Blaine.*

No. 266.] LEGATION OF THE UNITED STATES,
London, December 15, 1881. (Received December 29.)

SIR: I have the honor to acquaint you that on the 13th instant I had an interview with Lord Granville at the foreign office, and communicated to him the substance of your instruction No. 270, of the 19th ultimo. I then, at his request, read it to him, beginning, however, with the concluding paragraph, for obvious reasons. At his desire I left a copy with him.

I thought it wiser, in a matter of so much moment, that he should receive the views of the President as they were conveyed in the dispatch, rather than, perhaps, to weaken their force by communicating them in my own manner, as I was authorized by you to do.

Lord Granville listened with great attention, and merely said that he should reserve his answer.

I have, &c.,

J. R. LOWELL.

73.—*Mr. Lowell to Mr. Blaine.*

No. 277.] LEGATION OF THE UNITED STATES,
London, December 27, 1881. (Received January 9, 1882.)

SIR: I have the honor to report that so soon as I received your instruction No. 281, the 29th ultimo, I addressed a private note to Lord Granville informing him of the fact, and asking him when it would be convenient for him to favor me with an interview. In his reply he asked me if I could come to him at Walmer, where he was detained by the hospitalities of the Christmas season. Thinking it important that he should see the dispatch as soon as possible, because it was so nearly related to your No. 270, I accordingly went down to Walmer on the 23d instant. I there read the dispatch to him, and at his desire left a copy of it with him. I did not think it prudent or proper to enter upon any discussion with Lord Granville upon the general topics of the dispatch, but as some of the newspapers here had criticised it as untimely, I thought it not out of place to remind him that the policy of the United States had already been clearly indicated in a message to Congress by President Hayes, and more strongly reiterated in the same public manner by President Garfield.

Lord Granville was, as usual, exceedingly courteous and friendly, but made no remark except that the publication of No. 270, before an opportunity was given him of replying to it, "seemed to him, to say the least, unusual."

I have, &c.,

J. R. LOWELL.

74.—*Lord Granville to Mr. West.*

FOREIGN OFFICE, *January* 7, 1882.

SIR: In my dispatch No. 279*a* of the 13th ultimo I informed you that the United States minister at this court had communicated to me the substance of a dispatch which he had received from Mr. Blaine, then Secretary of State, on the subject of the convention of the 19th April, 1850. Finding that Mr. Lowell was authorized to give me a copy of this dispatch if I wished it, I requested him to do so, and I have already forwarded to you a copy for your information.

Her Majesty's Government have given their careful consideration to the views set forth in this paper. They entirely agree in the statement made towards its conclusion as to the cordial relations so happily existing between the two countries, and as to the opportunity which this state of things affords for a frank exposition of the views held by either government without risk of misconstruction. They have no hesitation, therefore, in proceeding to examine the grounds advanced by Mr. Blaine for desiring a modification of the convention.

The principles upon which the whole argument of the dispatch is founded are, as far as I am aware, novel in international law. If a discussion of the subject on the abstract grounds of public right were deemed useful or opportune, it would not be difficult to quote passages from publicists of acknowledged authority in both countries in support of this opinion. But for several reasons it will be better to treat the matter from the side of the practical consideration which it involves,

without, of course, being precluded from reverting at any future stage, in case of need, to its other aspect.

Her Majesty's Government cannot admit that the analogy which it is sought to draw from the conduct of Great Britain in regard to the Suez Canal is correct or justified by the facts. They have made no attempt to fortify the island of Cyprus, or to establish it as an armed position on an important scale, though they have an undoubted right to do so. The fortress of Gibraltar, the island of Malta, and the military establishment at Aden came into the possession of England at a date long anterior to the time when the Mediterranean and the Red Sea could be regarded as a military route to India. For years afterwards the whole mass of reenforcements for India was sent by the way of Cape of good Hope. Nor has any serious addition been made to the strength of these positions since the opening of the canal beyond what has been a natural consequence of the improvements in military science. Although no doubt well adapted by its situation to command the Straits of Bab-el-Mandeb, the Island of Perim has not in any real sense been made a fortified position. The fort and garrison on the island are, in fact, sufficient only to protect the light-house, which has been erected there for the general benefit of navigation, from possible attack by predatory Arabs.

The Navy Department of the United States must be well aware that Her Majesty's Government have never sought to bar or even to restrict the use of the canal by the naval forces of other countries, and that even during the recent war between Russia and Turkey, when the canal itself formed a portion of the territory of one of the belligerents, when the seat of conflict was close at hand, and when British interests might in many other respects have been nearly involved, they contented themselves with obtaining an assurance that the sphere of operations should not be extended to the canal.

Her Majesty's Government cordially concur in what is stated by Mr. Blaine as regards the unexampled development of the United States on the Pacific coast, and the capacity which they possess for further progress. That development has been watched in this country with admiration and interest, and will continue to be so regarded. But though in rapidity it may, and probably has, exceeded the most sanguine calculation, Her Majesty's Government cannot look upon it in the light of an unexpected event, or suppose that it was not within the view of the statesmen who were parties on either side to the Clayton-Bulwer treaty. The declarations of President Monroe and of his cabinet, in 1823 and 1824, whatever may be the view taken of their scope and bearing, and of the admissibility of the principles which they involve, or which it is sought to deduce from them, show at least that at that period—twenty-six years anterior to the treaty now under discussion—there was a clear prevision of the great future reserved to the Pacific coast. It is, in the opinion of Her Majesty's Government, an inadmissible contention that the regular and successful operation of causes so evident at the time, and in their nature so irrepressible, should be held to have completely altered the condition of affairs to the extent of vitiating the foundations of an agreement which cannot be supposed to have been concluded without careful thought and deliberation.

While recognizing to the fullest degree the extent to which the United States must feel interested in any canal which may be constructed across the Isthmus of Panama, Her Majesty's Government would be wanting in regard to their duty if they failed to point out that Great Britain has large colonial possessions, no less than great commercial interests, which render any means of unobstructed and rapid access from the Atlantic to

the North and South Pacific Oceans a matter for her also of the greatest importance.

The development of these possessions and interests has steadily continued, possibly with less rapidity, but on a scale which has some relation even to that of the Pacific States. Her Majesty's Government do not wish to ignore the share which other nations have acquired in the commerce of Central and South America, nor to exclude from consideration the interest of those countries in any canal which may be made across the Isthmus. They are of opinion that such a canal as the water-way between two great oceans and between all Europe and Eastern Asia is a work which concerns not merely the United States or the American Continent, but the whole civilized world. This is a view which finds its expression in the VIth article of the treaty of 1850. Her Majesty's Government are as anxious as that of the United States that, while all nations should enjoy their proper share in the benefits to be expected from the undertaking, no single country should acquire a predominating influence or control over such a means of communication; and they will not oppose or decline any discussion for the purpose of securing on a general international basis its universal and unrestricted use.

With all deference to the considerations which have prompted the proposals made in Mr. Blaine's dispatch, Her Majesty's Government cannot believe that they would promote this object or be beneficial in themselves. The relations of the United States with the European powers are fortunately of a nature to give rise to no feelings of suspicion or alarm. The general tendency of their foreign policy gives good promise that they will so continue. But if provision is to be made on one side for a different state of affairs, it must be expected that the course thus indicated will find its natural and logical counterpart on the other. Her Majesty's Government can conceive no more melancholy spectacle than a competition among the nations holding West Indian possessions, and others on the Central and South American Continent, in the construction of fortifications to obtain the command over the canal and its approaches, in the event of occasion arising for such a measure. They cannot believe that it would be agreeable or convenient to any South American state through which the canal may pass to find itself called upon to admit a foreign power to construct and garrison on its territory a succession of fortresses of increasing magnitude, designed to oppose such attempts, even though that foreign power be a neighboring one and situated upon the same continent. And when the claim to do this is accompanied by a declaration that the United States will always insist on treating the water-way which shall unite the two oceans "as part of her coast line," it is difficult to imagine that the states to which the territory lying between that water-way and the United States belongs can practically retain as independent a position as that which they now enjoy.

These are the consequences which, in the conviction of Her Majesty's Government, would almost certainly follow from a claim on the part of the United States to assume the supreme authority over the canal and all responsibility for its control. Her Majesty's Government hold, on the contrary, that the principles which guided the negotiators of the convention of 1850 were intrinsically sound, and continue to be applicable to the present state of affairs. Their wish would be that those principles should receive the practical development which was contemplated at the time; and that effect should be given to that portion of the treaty which provides that the contracting parties shall invite all other states with whom they have friendly intercourse to enter into similar stipulations with them.

A certain amount of progress was made in this direction by the conclusion of conventions with Honduras and Nicaragua by Great Britain in 1856 and 1860, and by the United States in 1864 and 1867, and by Nicaragua with France in 1859, with the object of upholding the general principles inserted in the treaty. During the period when there were still matters to regulate with respect to Grey Town, the Bay Islands, the frontier of British Honduras, and the protection of the Mosquito Indians, and when the construction of a canal still seemed a contingency more or less doubtful and remote, it was not strange that the engagement to address other powers should have been allowed to remain dormant; but the project of the canal has now assumed sufficient shape to render such an application reasonable and pertinent.

Her Majesty's Government believe that the extension of an invitation to all maritime states to participate in an agreement based on the stipulations of the convention of 1850 would obviate any objection that may possibly be raised against it as not being adequate in its present condition for the purpose for which it was designed. This course formed the basis of Mr. Fish's proposal to Dr. Cardenas, the Nicaraguan minister, in 1877; and Her Majesty's Government would gladly see the United States again take the initiative in an invitation to the powers, and will be prepared either to join it or to support and indorse it in the way that may be found most fitting and convenient, provided it does not conflict in any way with the Clayton-Bulwer treaty.

You are authorized to read this dispatch to the Secretary of State, and to give him a copy of it if he should desire it.

I am, &c.,

GRANVILLE.

The Hon. LIONEL S. S. WEST.

75.—*Lord Granville to Mr. West.*

No. 8. FOREIGN OFFICE, *January* 14, 1882.

SIR: In my dispatch 296 of the 31st ultimo I have forwarded to you a copy of a dispatch from Mr. Blaine to the United States minister at this court, containing further observations in support of his arguments and proposal for a modification of the treaty between this country and the United States of the 19th of April, 1850. In this dispatch Mr. Blaine gives extracts from the correspondence which passed between the two governments between 1856 and 1858, in consequence of questions that arose as to the construction to be placed on certain provisions of the treaty. Mr. Blaine seeks to establish from these extracts that "the vexatious and imperfect character of the treaty has been repeatedly recognized on both sides;" and he adds that the present proposal of the United States Government "is to free it from those embarrassing features, and to leave it, as its framers intended it should be, a full and perfect settlement, for all time, of all possible issues between the United States and Great Britain with regard to Central America."

The correspondence in question was laid before Parliament in 1860, and the principal papers included in it have also been published in Hertslet's State Papers.* A reference to the context of the passages quoted by Mr. Blaine will be necessary in order to appreciate the character which Mr. Blaine has attributed to them.

* Vol. xl, p. 953; xli, p. 757; xlii, p. 153; xlvi, p. 244; xlvii, p. 661; xlviii, p. 630; L, p. 126.

In cases where the details of an international agreement have given rise to difficulties and discussions to such an extent as to cause the contracting parties, at one time, to contemplate its abrogation or modification as one of several possible alternatives, and where it has yet been found preferable to arrive at a solution as to those details rather than to sacrifice the general basis of the engagement, it must surely be allowed that such a fact, far from being an argument against that engagement, is an argument distinctly in its favor. It is equally plain that either of the contracting parties which had abandoned its own contention for the purpose of preserving the agreement in its entirety would have reason to complain if the differences which had been settled by its concession were afterwards urged as a reason for essentially modifying those other provisions which it had made this sacrifice to maintain. That both these arguments apply in the present instance a brief review of the correspondence will, I think, suffice to show.

The treaty of 1850 was concluded (as is declared in the VIIIth Article) with the desire "not only to accomplish a particular object, but also to establish a general principle" in regard to the protection, by treaty stipulations, of any practical communications, whether by canal or railway, across the isthmus which connects North and South America.

The preamble and first article of the treaty run as follows:

Her Britannic Majesty and the United States of America, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal, which may be constructed between the Atlantic and Pacific Oceans, by the way of the river St. Juan de Nicaragua, and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean; * * *

ART. I. The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosqu to coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same. Nor will Great Britain or the United States take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered, on the same terms, to the subjects or citizens of the other.

Soon after the signature of the treaty various discussions arose as to the interpretation to be put upon those clauses which debarred either of the contracting parties from occupying, fortifying, or colonizing, or assuming or exercising any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, &c. Great Britain being at the time in possession of Ruatan and other islands off the coast of Honduras, and having a protectorate over the Mosquito Indians located on the coast of Nicaragua, a lengthened correspondence arose as to the effect to be given to the treaty in this respect, and also as to the boundary of British Honduras. A treaty was eventually signed by Lord Clarendon and Mr. Dallas for the settlement of the various questions at issue on the 17th October, 1856; but this agreement was not received with favor by the United States Senate, and the incoming government of President Buchanan, who had acceded to office in March, 1857, declined to confirm it without certain modifications. To these the British Government proposed further amendments, which were not at that time

deemed acceptable by that of the United States, and the treaty was never formally ratified.

To show how far this part of the discussion belonged in some of its features to a state of affairs that is now past, one of the objections taken by General Cass to the treaty in its last amended form was that it involved a recognition by the United States of a treaty between Great Britain and Honduras for the cession of the Bay Islands to the latter country, in which it was stipulated that slavery should not at any time be permitted to exist there. General Cass stated that "a treaty with such a provision would never be recognized by a United States Senate." (Lord Napier to Lord Clarendon, May 3, 1857.)

I now proceed to examine some of the extracts given in Mr. Blaine's dispatch.

The first paper quoted is one from Lord Napier to the Earl of Clarendon, dated the 12th March, 1857.

The only passage quoted is as follows:

General Cass then passed some reflections on the Clayton-Bulwer treaty; he had voted for it, and in doing so he believed that it abrogated all intervention on the part of England in the Central American territory. The British Government had put a different construction on the treaty, and he regretted the vote he had given in its favor.

But the dispatch goes on to say:

He did not, however, pretend that the British Government should now unconditionally abandon the Mosquitos, with whom they had relations of an ancient date; it was just and consistent with the practice of the United States that those Indians should be secured in the separate possession of lands, the sale of which should be prohibited, and in the enjoyment of rights and franchises, though in a condition of dependency and protection. The British Government had already removed one impediment to the execution of the Bulwer-Clayton treaty by the cession of their claims on Ruatan; two difficulties now remained—the frontier of Belize, and the delimitation and settlement of the Mosquito tribe. If the frontier could be defined, and if the Mosquitos could be placed in the enjoyment of their territory by treaty between Great Britain and Nicaragua, in which the concessions and guarantees of the latter in favor of the Indians should be associated with the recognition of the sovereignty of Nicaragua—so I understood the general—*then the Bulwer-Clayton treaty might be a permanent and satisfactory settlement between the contracting parties;* the United States desiring nothing else than an absolute and entire neutrality and independence of the Central American region, free from the exercise of any exclusive influence or ascendency whatever.

The next quotation is from another dispatch of Lord Napier, dated the 6th May, 1857, and the passage given runs thus:

The President denounced the Clayton-Bulwer treaty as one which had been fraught with misunderstanding and mischief from the beginning; it was concluded under the most opposite constructions by the contracting parties. If the Senate had imagined that it could obtain the interpretation placed upon it by Great Britain, it would not have passed. If he had been in the Senate at the time, that treaty never would have been sanctioned.

But President Buchanan went on to say:

With reference to arbitration (which Lord Napier had only thrown in as a suggestion of his own), he could not give any opinion at present. The President also inveighed against the excess of treaties, affirming that they were more frequently the cause of quarrel than of harmony, and that if it were not for the interoceanic communications he did not see there was any necessity for a treaty respecting Central America at all.

It seems, therefore, that the President's condemnation of the Clayton-Bulwer treaty was principally founded on the construction placed upon it by Great Britain at the time, and was also in some measure explained by his objections to treaties in general, but that he admitted that the question of the interoceanic connection made such an agreement necessary.

Mr. Blaine then quotes a note from Mr. Cass to Lord Napier, of the 29th May, 1857, as follows:

The Clayton-Bulwer treaty, concluded in the hope that it would put an end to the differences which had arisen between the United States and Great Britain concerning Central American affairs, had been rendered inoperative in some of its most essential provisions by the different constructions which had been reciprocally given to it by the parties. And little is hazarded in saying that, had the interpretation since put upon the treaty by the British Government, and yet maintained, been anticipated, it would not have been negotiated under the instructions of any Executive of the United States, nor ratified by the branch of the government intrusted with the power of ratification.

But how does General Cass continue? He goes on to say:

A protracted discussion, in which the subject was exhausted, failed to reconcile the conflicting views of the parties; and, as a last resort, a negotiation was opened for the purpose of forming a supplementary treaty which should remove, if practicable, the difficulties in the way of their mutual good understanding, and leave unnecessary any further discussion of the controverted provisions of the Clayton-Bulwer treaty. It was to effect this object that the Government of the United States agreed to open the negotiation which terminated in the treaty of the 17th October, 1856, and though the provisions of that instrument, even with the amendments proposed by the Senate, were not wholly unobjectionable either to that body or to the President, still, *so important did they consider a satisfactory arrangement of this complicated subject*, that they yielded their objections, and sanctioned, by their act of ratification, the convention as amended. It was then transmitted to London for the consideration of Her Britannic Majesty's Government, and, having failed to meet its approbation, has been returned unratified. The parties are thus thrown back upon the Bulwer-Clayton treaty, with its disputed phraseology and its conflicting interpretations; and, after the lapse of seven years, not one of the objects connected with the political condition of Central America which the United States had hoped to obtain by the arrangement has been accomplished.

It was not, therefore, to the principles or basis of the arrangement (the importance of which was fully recognized), but to the unfortunate phraseology of a single portion of the treaty, that objection was taken.

Mr. Blaine then refers to Sir W. Gore Ouseley's mission, the object of which was to settle the points at issue, in a manner practically satisfactory to the United States, by independent negotiations with the Central American States, after first communicating with the government at Washington. Mr. Blaine quotes a passage from a letter of General Cass to Lord Napier of the 20th October, 1857, as follows:

I have thus endeavored to meet the frank suggestions of your lordship by restating, with corresponding frankness, the general policy of the United States with respect to the governments and the interoceanic transits of Central America; but since your lordship has referred to the Clayton-Bulwer treaty of 1850, as contemplating a "harmonious course of action and counsel between the contracting parties in the settlement of the Central American interests," you will pardon me for reminding your lordship that the differences which this treaty was intended to adjust between the United States and Great Britain still remain unsettled, while the treaty itself has become the subject of new and embarrassing complications.

It will be useful to refer to the previous portion of this note to show what was the statement of the "general policy of the United States" thus referred to, and how far that policy corresponds with Mr. Blaine's present proposals. The note begins thus:

I have the honor to receive your lordship's communication of the 9th instant, in reference to the existing relations between Nicaragua and Costa Rica, and have submitted it to the consideration of the President.

These relations have attracted the earnest attention of the President, not only from the importance of the San Juan transit to the commerce of the world, but from the interest which is naturally felt by the United States in the neighboring republics of this continent. The President has witnessed, therefore, the restoration of peace to Nicaragua and Costa Rica with the highest gratification; and he sincerely hopes that it may not again be interrupted, either by the calamity of civil war or the invasion of their territory from other countries. Their security and welfare would undoubtedly

be promoted by a just and friendly settlement between them of their mutual boundaries and jurisdiction; and I need hardly add that such an adjustment would be viewed with satisfaction by the United States. This government, however, has never admitted the pretensions of Costa Rica to an equal control with Nicaragua of the San Juan River, but has regarded the sovereignty of the river, and consequently of the interoceanic transit by that route, as rightfully belonging to the Republic of Nicaragua.

A similar view of the question appears to have been recognized by Great Britain; and, whatever may be the rights of Costa Rica with respect to the free passage of her own products by the river to the ocean, it is better, probably, that what has been thus acquiesced in, and has led, moreover, to important contracts and responsibilities, should not now be disturbed. But under any circumstances the commercial nations of the world can never permit the interoceanic passages of the isthmus to be rendered useless for all the great purposes which belong to them in consequence of the neglect or incapacity of the states through whose territories they happen to run. *The United States, as I have before had occasion to assure your lordship, demand no exclusive privileges in these passages*, but will always exert their influence to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world.

And in a later note to Lord Napier, of the 8th November, 1858, General Cass states with still greater clearness the object with which the treaty was concluded, and the grounds on which the difference between the two governments had arisen. He says:

Since the announcement by your lordship, in October, 1857, of Sir William Ouseley's special mission, the President has awaited, not so much any new proposition for the adjustment of the Central American questions as the statement in detail, which he had been led to expect, of the method by which Sir William Ouseley was to carry into effect the previous proposition of the British Government. To make this plain, your lordship will pardon me for making a brief reference to what has occurred between the two governments in respect to Central America since the ratification of the Clayton-Bulwer treaty of 1850.

While the declared object of that convention had reference to the construction of a ship-canal by the way of San Juan and the Lakes of Nicaragua and Managua, from the Atlantic to the Pacific Ocean, *yet it avowed none the less plainly a general principle in reference to all practicable communications across the isthmus, and laid down a distinct policy by which the practical operation of this principle was likely to be kept free from all embarrassment. The principle was that the interoceanic routes should remain under the sovereignty of the states through which they ran, and should be neutral and free to all nations alike. The policy was that, in order to prevent any government outside of those states from obtaining undue control or influence over those interoceanic transits, no such nation should erect or maintain any fortifications commanding the same, or in the vicinity thereof, or should "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."* So far as the United States and Great Britain were concerned, those stipulations were expressed in unmistakable terms; and in reference to other nations, it was declared that the "contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other.

At that time the United States had no possessions whatever in Central America, and exercised no dominion there. In respect to this government, therefore, the provisions of Article I of the treaty could operate only as a restriction for the future; but Great Britain was in the actual exercise of dominion over nearly the whole eastern coast of that country, and, in relation to her, this article had a present as well as a prospective operation. She was to abandon the occupancy which she already had in Central America, and was neither to make acquisitions, or erect fortifications, or exercise dominion there in the future. In other words, she was to place herself in the same position with respect to possessions and dominion in Central America which was to be occupied by the United States, and which both of the contracting parties to the treaty engaged that they would endeavor to induce other nations to occupy.

This was the treaty as it was understood and consented to by the United States, and this is the treaty as it is still understood by this government.

He then recapitulates the discussions and abortive negotiations which had ensued in consequence of the different interpretations put upon the treaty by the two governments; and, after criticising and expressing disappointment at the last communication made to him by Lord Napier, he concludes:

It is of no small consequence either to the United States or Great Britain that these Central American controversies between the two countries should be forever

closed. On some points of them, and, I have been led to hope, on the general policy which ought to apply to the whole isthmian region, they have reached a common ground of agreement. The neutrality of the interoceanic routes, and their freedom from the superior and controlling influence of any one government; the principles upon which the Mosquito protectorate may be arranged, with justice alike to the sovereignty of Nicaragua and the Indian tribes; the surrender of the Bay Islands, under certain stipulations for the benefit of trade and the protection of their British occupants; and the definition of the boundaries of British Belize; about all these points there is no apparent disagreement, except as to the conditions which shall be annexed to the Bay Islands' surrender, and as to the limits which shall be fixed to the settlements of Belize. Is it possible that, if approached in a spirit of conciliation and good feeling, these two points of difference are not susceptible of a friendly adjustment? To believe this would be to underestimate the importance of the adjustment, and the intelligent appreciation of this importance which must be entertained by both nations. What the United States want in Central America, next to the happiness of its people, is the security and neutrality of the interoceanic routes which lead through it. This is equally the desire of Great Britain, of France, and of the whole commercial world. If the principles and policy of the Clayton-Bulwer treaty are carried into effect, this object is accomplished. When, therefore, Lord Malmesbury invites new overtures from this government upon the idea that it has rejected the proposal embraced in Sir William Ouseley's mission for an adjustment of the Central American questions by separate treaties with Honduras, Nicaragua, and Guatemala, upon terms substantially according with the general tenor of the American interpretation of the treaty, I have to reply to his lordship that this very adjustment is all that the President has ever desired, and that, instead of having rejected that proposal, he had expressed his cordial acceptance of it, so far as he understood it, and had anticipated from it the most gratifying consequences..

Further, in a dispatch to Mr. Lamar of July 25, 1858, subsequently communicated to Lord Malmesbury by Mr. Dallas on the 29th April, 1859, General Cass says:

These great avenues of intercommunication are vastly interesting to all commercial powers, and all may well join in securing their freedom and use against those dangers to which they are exposed from aggressions or outrages, originating within or without the territories through which they pass.

It is difficult to conceive a more distinct statement of adherence to the general principles of the Clayton-Bulwer arrangement, or a more positive disclaimer of the policy involved in Mr. Blaine's present proposals, than is contained in the passages I have just quoted.

I return, however, to the extracts given in Mr. Blaine's dispatch Mr. Blaine alludes to an important interview which Lord Napier had with President Buchanan on the 19th October, 1857, in which Lord Napier asked that, pending the negotiation intrusted to Sir W. Gore Ouseley, no proposal to annul the Clayton-Bulwer treaty should be sanctioned or encouraged by the President or members of the United States Government. Lord Napier's account of the President's language is as follows:

The President commenced his observations by referring to the Clayton-Bulwer treaty as a fruitful source of misunderstanding between the contracting parties. Without that treaty the United States and Great Britain might long since have cooperated for the welfare of Central America. That treaty had never been acceptable to the people of the United States, and would not have obtained a vote in the Senate had the least suspicion existed of the sense in which it was to be construed by Great Britain; yet, if it were now the intention of Her Majesty's Government to execute it according to the American interpretation, that was as much as we could insist upon.

And after reporting what passed at the interview with regard to the Bay Islands and Honduras, Lord Napier continued:

I then went on to animadvert upon the danger of some movement in the approaching Congress which would interfere with the contemporary negotiation of Sir William Ouseley, remarking that should the President, in his message, allude to the position of the two countries in reference to Central America, and if, in consequence of his excellency's reflections, a resolution should be proposed for the abrogation of the Clayton-Bulwer treaty, such a step would not only frustrate the purposes of Sir William Ouseley's mission, but would have a calamitous influence on the future relations of

England and America. It would, therefore, be highly gratifying to me to be enabled to assure your lordship that, pending the negotiation intrusted to Sir William Ouseley, no proposal to annul the treaty would be sanctioned or encouraged by his excellency or by the members of his government.

The President stated, in reply, that it was certainly his intention to give an account in his message of all that had passed between the two governments respecting the Dallas-Clarendon treaty. He appeared to intimate that the effect of such a narrative would be to place the conduct of Great Britain in an unfavorable light, and he added that the passage in which he commented upon these transactions was already prepared; but his excellency went on to affirm, with emphasis, that if the resolutions of Her Majesty's Government were such as I had related, if they really meant to execute the Clayton-Bulwer treaty according to the American interpretation, and would, before the meeting of Congress, make some communication to him in that sense, such as he could use, he would cancel what he had written and insert another passage referring to the mission of Sir William Ouseley, and that "nothing would give him greater pleasure than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."

His excellency also distinctly declared that, under the circumstances here described, no attempt against the Clayton-Bulwer treaty in Congress would have any countenance from him whatever. To him it was indifferent whether the concession contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States, or to treaties between the former and the Central American republics; the latter method might, in some respects, be even more agreeable to him, and he thought it would be more convenient to Her Majesty's Government, who might, with greater facility, accede to the claims of the weaker party.

I pass over some passages given in Mr. Blaine's dispatch which seem to call for no remark, and I would only observe that the proposal for arbitration alluded to in Lord Napier's note to General Cass of February 17, 1858, applied only to the controverted points in the treaty, and not to the whole instrument.

Mr. Blaine refers to a conversation with General Cass, reported by Lord Napier in a dispatch of the 22d March, 1858, in which reference was made to the idea of an abrogation of the treaty. It may be well to give a larger extract of this dispatch, because, although Lord Napier's remarks were stated to be personal and unofficial, they show his view of the form which such an abrogation should take. He says:

I have, accordingly, on two occasions, informed General Cass that if the Government of the United States be still of the same mind, and continue to desire the abrogation of the treaty of 1850, it would be agreeable to Her Majesty's Government that they should insert a proposal to that effect in their reply to my note respecting arbitration, and to that in which I explained the character and motives of the mission intrusted to Her Majesty's commissioner in Central America.

Some conversation ensued regarding the manner in which the dissolution of the treaty should be effected, and the condition by which it might be accompanied, and on these topics I have held the following language, premising that the views expressed were altogether spontaneous and personal, for I had no information of the intentions of Her Majesty's Government beyond the bare fact that they would entertain a proposal to cancel the engagements of 1850 emanating from the United States.

I stated that, in my opinion, the treaty in question could only be repealed by a new treaty in the usual forms, and that it might be desirable that such a treaty should not be restricted to a single article annulling its predecessor. Both for considerations of decency and policy I advocated the insertion of stipulations involving an expression of a common policy in Central America, and the disavowal of any exclusive or monopolizing projects on either side. I said that I thought a treaty might be framed of three articles.

The first should declare the desire of the contracting parties to encourage and protect the organization of transit routes in the interoceanic region, and bind those parties never to negotiate for any rights or privileges of transit with the Central American States of a preferential or exclusive character, to which other nations might not, by negotiation, be equally admitted, establishing thus the principle of an equal enjoyment of those avenues of trade for all the countries of the world.

The second article might recognize the jurisdiction of the transit route by the San Juan River as being vested in the government of Nicaragua. This had been already avowed by the United States in a treaty negotiated with that republic. It had not been definitely affirmed by Great Britain, and might seem to clash with the claims of the King of Mosquitia to territorial possession or authority in those parts. I thought,

however, that in regard to the views lately expressed by Her Majesty's Government in the course of recent negotiations, in consideration of the necessity of obtaining a suitable treaty with Nicaragua, and for the purpose of placing themselves in harmony with the course pursued by the United States, Her Majesty's Government might, on this head, accede to an article which would practically restrict their protectorate in Mosquitia, and prevent the importation of any interference on their part with the territory traversed by the river, and, therefore, by the transit route.

Finally, I suggested that Article III of the treaty should simply declare the provisions of the treaty of 1850 to be void and of no effect. I added that the question of future territorial acquisition in Central America would thus be thrown open to the United States; that Her Majesty's Government, on the other hand, would retain the colony of Honduras in the proportions which might be given to it by treaty arrangements with Guatemala, and that the Bay Islands would remain attached to the British Crown. Indeed, I affirmed, still as a personal opinion, but of the most positive character, that in case of the dissolution of the Clayton-Bulwer treaty, the Bay Islands would not be relinquished by Her Majesty's Government. I felt bound to make this statement, having observed in some quarters an impression that Her Majesty's Government might be disposed not only to annul the treaty, thus opening a path for the eventual annexation of the isthmus to the Federal Union, but to give up the Bay Islands as well; a notion altogether unfounded in any intimation which has hitherto reached me from the Foreign Office, and which could not be reconciled, in my opinion, to the interests of England.

Lord Napier adds that he was most careful to remark throughout that the opinions he enunciated with reference to the treaty were exclusively his own.

Mr. Blaine gives only a very short extract from Lord Malmesbury's dispatch in reply of the 8th April, 1858. It will be desirable to quote it more at length. Lord Malmesbury says:

Her Majesty's Government, if the initiative is still left to them by the unwillingness of the United States themselves to propose abrogation, desire to retain full liberty as to the manner and form in which any such proposal shall be laid on their behalf before the Cabinet at Washington; but without pronouncing any decided opinion at the present moment, I think it right to point out to your lordship that the effect of such an article as that suggested in your dispatch, as the second, might be to perpetuate an entanglement with the government of the United States, and to place that government in a position to question or control the free action of Her Majesty's Government in everything that relates to Central America. The Clayton-Bulwer treaty has been a source of unceasing embarrassment to this country, and Her Majesty's Government, if they should be so fortunate as to extricate themselves from the difficulties which have resulted from it, will not involve themselves, directly or indirectly, in any similar difficulties for the future.

Her Majesty's Government would have no objection to enter with the United States into a self-denying engagement such as that suggested in your first article, by which both parties should renounce all exclusive advantage in the use of any of the interoceanic routes, and should bind themselves, each to the other, not to interfere with free transit. Such an article would be a suitable substitute for the Clayton-Bulwer treaty, for it would secure, as regards the contracting parties, the avowed object of that treaty—the freedom of interoceanic communication.

But beyond this Her Majesty's Government, as at present advised, are not prepared to contract any engagement as a substitute for the Clayton-Bulwer treaty, and from the abrogation of that compact, if it should take place, they will hold themselves as free to act in regard to Central America in the manner most conducive to the advancement of British interests and the fulfillment of British obligations as if the treaty had never been concluded.

Your lordship was, therefore, perfectly right in using decided language such as that reported in your dispatch respecting the Bay Islands; and whenever the subject of the abrogation of the Clayton-Bulwer treaty is mooted in your presence, you will make it perfectly clear to the Government of the United States that to abrogate the treaty is to return to the *status quo ante* its conclusion in 1850; that Her Majesty's Government have no kind of jealousy respecting American colonization in Central America, which, indeed, it would help to civilize; and that we neither ask nor wish for any exclusive privileges whatever in those regions.

These, then, were the terms upon which Her Majesty's Government were alone prepared, if at all, to consider the abrogation of the Clayton-Bulwer treaty. And such an alternative was deprecated by General Cass in a note to Lord Napier of the 6th April, 1858, in which, while

declining the proposal of arbitration on the disputed points of the treaty, he alluded to a personal expression of opinion he had given in favor of an unconditional renunciation of the treaty, and called attention to the serious consequences which might result from its dissolution if no provision were made at the same time for adjusting the questions which led to it. He then concluded with the passage quoted by Mr. Blaine, to the effect that "if the President does not hasten to consider now the alternative of repealing the treaty of 1850 it is because he does not wish prematurely to anticipate the failure of Sir William Ouseley's mission, and is disposed to give a new proof to Her Majesty's Government of his sincere desire to preserve the amicable relations which now happily subsist between the two countries."

But subsequent events make it unnecessary to dwell further upon this part of the discussion, for the question was settled by the practical accomplishment of that which the United States Government regarded as the most satisfactory conclusion.

It is here that the extracts and account of the negotiation given by Mr. Blaine come to an end at a point when the most important episode commences. The continuation of the correspondence shows that on the 30th April, 1859, a treaty was concluded between Great Britain and Guatemala for the settlement of the question of the boundary of Belize; that on the 28th November, 1859, another treaty was concluded between this country and Honduras for the transfer of the Bay Islands to that republic, as well as for the settlement of other questions relating to the Mosquito Indians and the claims of British subjects, including the withdrawal of the British protectorate, and that on the 28th January, 1860, a third treaty was concluded between this country and Nicaragua, also with reference to the Mosquito Indians and the claims of British subjects.

Copies of these three treaties were officially communicated to the United States Government, with the expression of a hope on the part of Her Majesty's Government that they would "finally set at rest the questions respecting the interpretation of the Clayton-Bulwer treaty, which had been the subject of so much controversy between this country and the United States."

And in his message to Congress of the 3d December, 1860, President Buchanan says the dangerous questions arising from the Clayton-Bulwer treaty "have been amicably and honorably adjusted. The discordant constructions of the Clayton-Bulwer treaty between the two governments, which at different periods of the discussion bore a threatening aspect, have resulted *in a final settlement entirely satisfactory to this government.*"

I have been forced to give the above extracts at considerable length, and I refrain from adding other passages which would tend to illustrate and confirm them. A perusal of them, however, will, I think, suffice to show—

1. That the differences which arose between the two governments in regard to the treaty, and which occasioned at one time considerable irritation, but which have long since been happily disposed of, did not relate to the general principles to be observed in regard to the means of interoceanic communication across the isthmus, but had their origin in a stipulation which Mr. Blaine still proposes in great part to maintain. He wishes every part of the treaty in which Great Britain and the United States agree to make no acquisition of territory in Central America to remain in full force, while he desires to cancel those portions of the treaty which forbid the United States fortifying the canal and

holding the political control of it in conjunction with the country in which it is located.

2. That the declarations of the United States Government during the controversy were distinctly at variance with any such proposal as that just stated. They disclaimed any desire to obtain an exclusive or preferential control over the canal. Their sole contention was that Great Britain was bound by the treaty to abandon those positions on the mainland or adjacent islands which in their opinion, were calculated to give her the means of such a control. Nor did they in any way seek to limit the application of the principles laid down in the treaty so as to exclude Colombia nor Mexican territory, as Mr. Blaine now suggests, nor urge that such application would be inconsistent with the convention between the United States and New Granada of 1846. On the contrary, they were ready to give those principles their full extension.

3. That at a time when the British Government had been induced by the long continuance of the controversy to contemplate the abrogation of the treaty, they were only willing to do so on the condition of reverting to the *status quo ante* its conclusion in 1850; a solution which was at that time possible, though, as the United States Government justly pointed out, it would have been fraught with great danger to the good relations between the two countries, but which is now rendered impossible by the subsequent events.

4. That a better and more conciliatory conclusion, which for twenty years has remained undisputed, was effected by the independent and voluntary action of Great Britain. The points in dispute were practically conceded by this country, and the controversy terminated in a manner which was declared by President Buchanan to be amicable and honorable, resulting in a final settlement entirely satisfactory to the Government of the United States.

You are authorized to read this dispatch to the United States Secretary of State, and to offer him a copy of it if he should desire, in the same manner in which a copy of Mr. Blaine's dispatch was offered to me.

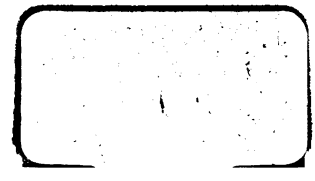
I have, &c.,

GRANVILLE.

The Hon. L. S. S. WEST.

76.—*Mr. Lowell to Mr. Frelinghuysen.*

No. 376.] LEGATION OF THE UNITED STATES,
London, June 1, 1882. (Received June 13.)

SIR: I have the honor to acknowledge the reception of your instruction No. 368, of the 8th of May last, stating the position of the Government of the United States in relation to questions growing out of the (so-called) Clayton-Bulwer treaty. It arrived on the 27th ultimo, when the members of the government were leaving town for the Whitsuntide holidays. I have had no opportunity of seeing Lord Granville until yesterday, when I had an interview with him, by appointment, at the foreign office. I read the dispatch to him and left a copy of it with him, at his request, agreeably to your directions. I have already informed you of this by cable.

I have, &c., J. R. LOWELL.